

Report of Investigation

26 January 2009

Subj: SENIOR OFFICIAL CASE 200801190; ALLEGED MISUSE OF POSITION, PERSONNEL, VEHICLES, AND TRAVEL; LACK OF IMPARTIALITY IN PERFORMING OFFICIAL DUTIES; AND FAILURE TO TAKE LEAVE ICO RDML ARNOLD O. LOTRING, USN

Preliminary Statement

1. During a NAVINSGEN Area Visit in Great Lakes, IL, a confidential complainant alleged that as Commander, Naval Service Training Center (CNSTC), Great Lakes, RDML Arnold Lotring, USN:

a. Misused his Enlisted Aides and other staff members by requiring them to support non-official social events in his assigned quarters (i.e., their services were involuntary and uncompensated);

b. Misused his Enlisted Aides by requiring them to perform services that contributed only to his (the Admiral's) benefit;

c. Misused a Government vehicle and its driver by requiring that he be driven home (to his quarters) from various places of work; by requiring that other individuals be driven to his quarters (without him being present in the vehicle); and by requiring that his spouse be driven to the airport;¹

d. Failed to charge his annual leave account for time he took off from work, which was consistently scheduled on his calendar as "annual leave" and which should have been charged as leave; and

e. Misused official travel (TDY) by scheduling unnecessary business travel to Northeast locations in order to facilitate convenient visits to nearby family members.

2. During our investigation, we developed two emergent allegations, as follows:

a. That RDML Lotring violated the Standards of Ethical Conduct by improperly taking official action affecting a private

¹ Allegedly, the Admiral required some of these services, despite his Staff Judge Advocate (SJA) telling him they were improper.

interest of a personal friend (by influencing members of his staff to ensure the friend was awarded a contract); and

b. That RDML Lotring misused the services of another Flag Officer's Enlisted Aide (by bringing the Enlisted Aide to Great Lakes in a TDY status to support social events incident to his Change of Command (COC)).

3. As set forth below, our investigation substantiated portions of each allegation.

Background

4. RDML Lotring relieved (b)(6) (b)(7)(c), as CNSTC on 5 November 2006. (b)(6) (b)(7)(c) who had been dual-hatted as CNSTC and Commander, Navy Region Midwest, assumed duties as Commander, Naval Education and Training Command, (CNETC) in Pensacola, FL. (b)(6) (b)(7)(c), assumed (b)(6) (b)(7)(c)' duties as Regional Commander, but as a Reservist on "Active Duty Special Work" orders, he was not entitled to on-base housing. As such, RDML Lotring was assigned to Quarters AA, which are located directly behind and across the street from RDML Lotring's office.

5. RDML Lotring served as CNSTC until he was relieved by (b)(6) (b)(7)(c), on 15 August 2008. RDML Lotring currently serves as Chief Operating Officer, Naval Education and Training Command, Norfolk, VA.

6. The Recruit Training Command (RTC), Great Lakes, a subordinate command located about a mile and one-half from NSTC, holds a graduation ceremony every Friday. RDML Lotring attended most graduations and was frequently accompanied by b6 b7c. The "official party" for these events typically included a Reviewing Officer and a Guest of Honor, whom the Lotrings often hosted at social events in their quarters on Thursday evenings, preceding the graduation ceremonies.

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Allegation #1: That during March and April 2007, RDML Lotring improperly took official action affecting a private interest of a personal friend by influencing members of his staff to ensure that the friend was awarded a contract to produce artwork for a commissioning ceremony and by directing that payment to his friend be expedited, in violation of the Standards of Ethical Conduct (5 CFR Part 2635, Sections 2635.702(a) and (d)).

Findings of Fact

Overview

7. Battle Stations 21 (BST-21) is a replica of an Arleigh Burke class destroyer, named the USS TRAYER, situated in a building and in 90,000 gallons of water at RTC on NAVSTA Great Lakes. A 12-hour, non-stop exercise on BST-21 is the culmination of recruit training, successful completion of which qualifies the recruit as a United States Navy Sailor. BST-21 was commissioned on 18 June 2007, with a ceremony attended by RDML Lotring, Congressman Mark Kirk (R-IL), the VCNO, CNETC, and other senior Navy officials.

8. RDML Lotring and his Public Affairs Staff planned and coordinated the ceremony, and he decided to have an artist produce a commemorative watercolor painting of USS TRAYER as if it were underway. Additionally, he wanted framed prints of the painting to be offered for display in the work spaces of the CNO and CNETC, as well as multiple digital prints to be distributed to the general public at the ribbon cutting ceremony for the new facility. The Admiral knew an b6 b7c in Connecticut, b6 b7c b6 b7c, a b6 b7c who had done naval artwork on various occasions. In particular, b6 b7c had done artwork for the Admiral's prior command, the Submarine Learning Center in Groton, CT, a piece of which was hung in the Admiral's NSTC office. In early March 2007, RDML Lotring asked b6 b7c if he would be interested in doing the BST-21 artwork. In April 2007, his Chief of Staff (COS) and Public Affairs Officer (PAO) each felt pressured to ensure b6 b7c received the contract for that artwork.

9. The contract, in the amount of \$4,800, was awarded to b6 b6 b7c by Fleet Industrial Supply Center (FISC) Norfolk on 26 April 2007. The contract provided for: a painting of the ship, \$1,500; the artist's travel, \$1,600; 500 digital prints of the painting, \$1,500; and shipping charges, \$200.²

10. RDML Lotring testified that he made it clear to his staff that he was a personal friend of b6 b7c and therefore didn't want to have anything to do with the contract. The testimony of

² Framed prints were purchased separately and offered for display in the offices of the CNO and CNETC, at a total cost of \$240.

his staff and RDML Lotring's own e-mails, however, provide substantial evidence that RDML Lotring was very much involved in ensuring the contract went to his friend, b6 b7c.

11. On 23 April 2007, three days prior to the award of the contract, the b6 b7c informed the b6 that b6 b7c would be arriving at NSTC on the 26th and that RDML Lotring had been talking to b6 b7c and proposed a schedule for the 27th. The Admiral hosted b6 b7c in his quarters for dinner on the 26th and in his office for lunch on the 27th. In June, the evening before the BST-21 Commissioning, b6 b7c attended an official "premiere" reception in the Admiral's quarters, at which time the Admiral ceremoniously unveiled b6 b7c painting.

12. (b)(6) (b)(7)(c) CNETC, was unaware of how the artwork was funded or that there was any issue of contracting the work to a b6 b7c of RDML Lotring.

13. Payment ("direct deposit on delivery") to b6 b7c wasn't as prompt as he had expected. When he complained, the Admiral interceded for him by insisting the payment be expedited, much to the frustration of his staff. In late June 2007, the NSTC Comptroller approved an amendment to b6 b7c contract, changing the method of payment to the Government purchase card.

RDML Lotring's Interface with b6 b7c

14. E-mail exchanges in March and early April 2007, which were on file in the Public Affairs Office, show RDML Lotring personally solicited b6 b7c as the only b6 b7c he trusted to perform the desired task.

a. 7 March 2007, RDML Lotring to b6 b7c, Subj: Vision for a piece of Art - Initial Contact:

We have a ship's commissioning ceremony scheduled in June with the CNO, but unlike a ship, I have no expectations for a nice painting of the ship. That's where you come in. I am thinking a painting of the ship with the kids on the pier and surrounded by small inserts of action training from each scenario- much like you have done before at sub school. I have a small budget I think (remember if I had a lot of money, I would go to a big-name artist- just kidding), but I need someone who will work with me creatively and not get moody. So take a look at these clips and if you are even mildly interested in getting involved with this mad man again, give me a call- if not I will understand- you will still get an invite to Great Lakes.

b. 20 March 2007, b6 b7c to RDML Lotring, Subj: Re: Vision for a piece of Art - Initial Contact:

(b)(6) - It was great talking with you last night. I am getting ready for Norfolk this weekend, as I said, so I can't do too much

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right now, as far as estimates go (though I do have a printer working on that part of it.) I will be back on Tuesday, and will have some numbers for you by Friday....

c. 20 March 2007, RDML Lotring to b6 b7c :

b6 , Of course I have asked you to do this because it is right up there with the mural at Submarine School as far as visibility and importance. I can think of no one else I would trust... I am going back up to Great Lakes tomorrow and will talk with my PAO...

d. 26 March 2007, PAO to b6 b7c :

b6 , I work for RDML Lotring as his b6 b7c . I would like to further explore what support you need to start working on the BS21 art project. RDML and I have discussed initial concepts, including the scenarios (of which there are 17) of BS21 in the art piece itself, as well as printing smaller versions of the mural size piece as give-aways at the June 14 commissioning. I have been on your WEB site/gallery... and have a copy of your bio. We will also be putting a contract together involving this project, so could you please send a list of military themed commissioned drawings to date; therefore we can include this additional info in our statement of work... Best, (b)(6)

e. 2 April 2007, RDML Lotring to b6 b7c , Subj: Battle Stations 21 Input:

b6 , Could you please send to me and the PAO a quick summary of the pieces that you have done for commissionings and launchings. I want to use in the contract language so we can justify using you exclusively. (b)(6) is out of the office for about a week and a half but she has an assistant working the project. I am in San Diego tomorrow but will call you on Wednesday. W/r, b6 b7c

f. 2 April 2007, RDML Lotring to PAO:

b6 b7c , Please let me know if we need more. Should I see a request for proposal bid this week for b6 ? RDML

Sole-Source Justification Signed by b6

15. In an e-mail of 3 April 2007, b6 b7c , b6 b7c b6 b7c , advised b6 b7c of NSTC's need for his help in writing a detailed Statement of Work (SOW), noting that b6 b7c already had provided what was needed for a sole-source justification.³ In an e-mail of 9 April 2007 to b6 b7c (copy to RDML Lotring), b6 b7c announced the dates of his

³ At the time, b6 was a b6 b7c . In mid-April 2007, after he started working on preparation of the artwork contract, NSTC hired him as a b6 .

site visit (27 April) and product delivery (1 June) [despite the fact that he wasn't yet authorized as a sole-source vendor].

16. In an e-mail of 10 April 2007, b6 b7c sent b6 b7c b6 b7c, NSTC b6 b7c, the SOW "for work for b6 b7c b6 b7c, RDML Lotring's choice to create an artistic rendering" of BST-21, asking her to expedite review of the contract so b6 b6 b7c could "start work as soon as possible." b6 b7c then advised the b6 b7c that a sole-source justification should be drafted and that b6 b6 should be so notified. She also questioned b6 b7c status as a b6 b7c, at which point b6 b7c assisted b6 b7c in registering, apparently for the first time, as a Government contractor.

17. b6 b7c stated:

... It was puzzling to [the COR] and to us [in the PAO office] that we were writing a statement of work, something that we'd never done before...

... It ended up being... "How do we justify having b6 b6 being the only one?" Well, we asked b6 b7c b6 b7c, the b6 b7c b6 b7c, and she said, "Well, in order to justify this, you have to prove that he's the only one that can do it."... So I ended up having to ask b6 b6, "Well, what makes you so qualified to do this? - Can you send me something that has a list of your accomplishments?" So, b6 b6 sent me his list of accomplishments and we wrote this sole-source justification with that put in there... [And] we had to look for a local artist, so we went on Yahoo... and we really couldn't find any that specialized in military art in this area... we searched under "military artists." ...We didn't call [any] artists... We told [b6 b6] we did the search on Yahoo [and that] we found no military artists listed locally. And she, I believe, was satisfied with that.

18. On advice of b6 b7c, the sole-source justification was prepared, and b6 b7c b6 b7c, b6 b7c, submitted it for signature by the b6 b6, b6 b7c b6 b7c, b6 b6 (since retired). b6 b6 b7c stated that he didn't want to sign the justification, which set forth, in part:

Due to the nature of work, an artist is needed who can quickly produce an artistic rendering of superb quality to be handed out to senior Government officials and other dignitaries who typically attend a ship's commissioning.

Bearing in mind the unusual aspects of each individual artist, this request is aimed at a proven artist with unique qualities and understanding of the Navy, its traditions and realities. NSTC Public Affairs Staff has researched various local artists but none has a proven track record of military or Navy unique renderings. With high profile guests aboard, such as members of congress plus the Vice Chief of Naval Operations, it is imperative

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we have an individual with a proven track record to record this memorable event.

In addition, while researching the local business directory on the internet, NSTC staff was informed that there are no Navy artists in the Great Lakes area....

19. On 11 April 2007, b6 b7c signed the sole-source justification and sent it to the Contracting Officer, asking whether the FISC could process the request "at least to the point where b6 b7c c[ould] safely make his plane reservation."

20. b6 b7c recounted that at one of the weekly front office meetings, with no attorneys in attendance, RDML Lotring expressed his desire to have b6 b7c paint BST-21. She recalled that the Admiral said, words to the effect, "This is who I want: b6 b7c; this is a good guy; I've used him before; there shouldn't be any reason you can't use that guy." She understood that previously b6 b7c was used "as a sole source" to do artwork at the Submarine Learning Center in Groton, CT, some of which was hanging on the Admiral's wall in his office at Great Lakes.

Q. Did you feel at least implicit pressure to make this happen for b6 b7c?

A. Yes. I think it was quite clear it was going to be b6 b7c.

Q. Sort of regardless of what anybody had to say about it, that this is what Admiral Lotring wants, this is what Admiral Lotring is going to get?

A. Yes....There was never discussion of anybody else or backup plans or alternatives; it was b6 b7c

Q. From your perspective, you knew that was what the Admiral wanted and, "We need to basically expedite it and make it happen and not get embroiled with all kinds of dissension and controversy and stumbling blocks and people that might refuse to sign sole-source justification," to "Let's just get this thing out the door?"

A. Yes.

Q. And I don't mean to oversimplify.

A. No, you said it exactly right.

Q.Do you think his [RDML Lotring's] personal involvement was improper?

A. I don't think it was necessary. Coming back to that style of leadership, he was not going to be dissuaded from it being b6 b7c. And then the personal involvement that I saw, even more than

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the sole-source, was the staff being demeaned [by RDML Lotring]: "Hey, haven't you paid b6 [redacted] yet?" And it's like, "Admiral, you're not listening; b6 [redacted] hasn't given us what we need; this is a guy that we've been told has worked with the Navy before and he knows he has to provide this document that says what the final cost is..." It was like, okay, the expediency of Battle Stations has to be great; we've used this guy before; I signed the paperwork. Then, okay, finally he's going to get off b6 [redacted]. [But] no; it was more than once, "Why haven't you paid Dan Price? - How long are you going to screw this up?"

Public Affairs Staff

21. b6 b7c [redacted] stated that he was a trained artist and previously served as an illustrator in the Army. He told the b6 [redacted], b6 b7c [redacted], that he would volunteer to do the required painting, but she said, "No, b6 b7c [redacted] is going to [do it], because this is what the Admiral wants." b6 b7c [redacted] opined that the painting b6 b7c [redacted] produced didn't reflect the work of a professional artist, but rather "something you would do when you were in art school."

22. b6 b7c [redacted], NSTC b6 b7c [redacted], recounted:

a. RDML Lotring wanted his friend, b6 b7c [redacted], to do the artwork for BST-21. The Public Affairs office was tasked with taking the lead on the contract, which was unusual, as the personnel in that office had no experience in writing statements of work. The b6 [redacted], b6 b7c [redacted], received direction from b6 b7c [redacted] b6 b7c [redacted], to the effect, "This is the way the Admiral wants it and this is the way we are going to do it." b6 b7c [redacted] and b6 [redacted] b6 b7c [redacted], b6 b7c [redacted], were not comfortable with their task to write the SOW, and so they consulted b6 [redacted] b6 b7c [redacted] and the b6 [redacted], b6 b7c [redacted]. Although b6 b7c [redacted] and b6 b7c [redacted] also didn't seem to understand why the b6 [redacted] office was tasked to draft the SOW, they interposed no objection and provided assistance with the SOW, but not with drafting the sole-source justification.

b. b6 b7c [redacted] told them that they had to check three other artists before they could offer b6 b7c [redacted] the contract, and she assured them that sole-sourcing the contract to b6 b7c [redacted] would be legal, as long as he were the only one who could meet NSTC's specific requirements.

c. It was b6 b7c [redacted] understanding that after using the internet to identify three local artists in the Chicago area, b6 b7c [redacted] called them and asked for price quotes and whether they could provide paintings done in water colors.⁴ RDML

⁴ We note that b6 [redacted] testimony indicates that he searched the internet, but that he did not make any calls to other artists.

Lotring had "very specific" requirements, and b6 b7c perceived that the Admiral expected them to "ask "the right questions so that he [b6 b7c] c[ould] get [the contract]."

d. In b6 b7c absence, b6 b7c took the sole-source justification to b6 b7c and told her that he was not comfortable with it and would not sign it. He doesn't recall whether he showed the sole-source justification to b6 b7c en route to b6 b7c.

23. b6 b7c recounted:

a. RDML Lotring wanted to do an insert piece in his commissioning program, to showcase the ship, and asked her whether she could figure out a way to have it done. He said he just wanted it done correctly, but wanted to use b6 b7c, a civilian in Connecticut who had done artwork for him previously, since he was the only person who'd done military paintings whom he could trust. She then had to familiarize herself with, and oversee, the contracting process, to include having her public affairs specialists develop the SOW and write the sole-source justification. She wasn't comfortable with her office being saddled with the responsibility for functions usually performed by contracting personnel, and nothing about the process went "fast enough for [the Admiral]." She had many discussions with him about the project, primarily for two reasons: (1) she wanted to be sure that the artwork was going to look good, and (2) she wanted to determine why it was necessary to use b6 b7c. She didn't discuss with the Admiral whether it was legal to sole-source to b6 b7c.

b. b6 b7c and/or b6 b7c, b6 b7c, b6, advised her to look at the competition. So b6 went on line and looked for artists in the Chicago area who had done military artwork, but found none. b6 b7c discussed with b6 b7c whether it was appropriate to award the contract to b6 b7c, and b6 b7c assured her that it was legal.⁵ At the advice of b6 b7c, the b6 b7c, b6 b7c b6 b7c had her specialists draft a sole-source justification and sent it to b6 b7c. Upon learning that the b6 signed the sole-source justification, b6 b7c commented that "flag-staff level stuff was happening."

I never understood from the beginning why it had to be b6. I thought it was a ridiculous that we were flying somebody in from Connecticut. I know people in the Illinois area that are illustrators and graphic artists and there's all kinds of people that I thought could have done it better....

⁵ b6 was unaware of the friendship between the Admiral and b6.

I said to Admiral Lotring, "I have a couple of other people that are closer in the area." And this was just as a point of argument, realizing that I can't go out and get these people to come here to do this art; I have to go through the proper channels and do it through a vendor and whatnot. But I was describing to him that there's virtually anybody could take a snapshot of the [ship] and actually do it justice...

We probably had 5-7 conversations about this and it was constantly met with, "We have to do it this way; see what b6 b7c created for me on my wall?" And he'd show me the art. And I said "I disagree with you, but if that's what you're wanting to do...and this gentleman does that type of...artwork, then we'll go with that; we just have to make sure we're doing it the correct way." The end state was, aesthetically I had an argument with him because I felt that we weren't getting a professional product....

I was saying [to the Admiral], "Why does it have to be b6 [redacted] when I know we have to go through other people and get the lowest bidder and do all that?" "Well, we don't have time" was one of the issues: "This is a known quantity and we have to do this now." He would call me in and say, "Where are we with my artwork? - When's b6 [redacted] getting on a plane? - When is b6 [redacted] coming here?"

I don't recall ever having a conversation with b6 b7c [redacted] [the b6 b6 b7c [redacted]] or b6 [redacted]. We were more concerned with the delivery, the end goal, than we were with the process because that's why other people get paid in the Navy.

....He [RDML Lotring] presented three framed pieces of art as gifts. That was I think what b6 b7c [b6 b7c] was writing about too, the gift-giving part. I think the Admiral was told he had to pay for the other two pieces he wanted to give to the other flag Admirals. And that they would be stamped Navy property on the back, so that they weren't personal gifts. They would be able to only appear in their office spaces.

(b)(6) (b)(7)
(c)

24. b6 b7c [redacted] stated that the contract was properly awarded. She reviewed the SOW, noting that it was a specific type of art that the Admiral wanted, which could be procured under a "small purchase" contract. b6 b7c [redacted] knew that b6 b7c [redacted] was an artist whom RDML Lotring liked, but didn't know whether he could be "characterized as" the Admiral's friend.

25. b6 b7c [redacted] principal role in reviewing the contract was to render to the b6 [redacted] a written legal opinion of whether the portion of the Operations and Maintenance, Navy (O&M,N) appropriation designated for public affairs external relations could be used to purchase a painting of the USS TRAYER and multiple digital prints of that painting to be distributed to the general public at the ribbon cutting ceremony. She also opined whether regular

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O&M,N funds could be used to frame two of the prints to be offered for display in the work spaces of CNO and Commander, NETC. While it is not clear that b6 b7c specifically endorsed the wording of the sole-source justification, she clearly felt that a sole-source procurement was appropriate in this case.

It was below the point where it needed to be competed... My recollection here is that \$100,000 is "full and open competition," and this was well below. My recollection is this was under \$10,000... Art is unique and art is taste-driven, and ... we followed scrupulously the federal acquisition regulation and all the procurement rules... And we did, in fact, a sole-source justification for it.

It's hard to compete art; it really is, because it is specific to a particular style and to a particular genre. So, therefore, I felt very comfortable in authorizing a purchase of a particular sort of art, given the dollar value and given our ability under the federal acquisition regulation to do this.

(b)(6) (b)(7)(c)

26. b6 b7c, b6 b7c, FISC, Norfolk, Great Lakes Office, explained that a Government contract in an amount greater than \$3,000 and less than \$25,000 must be competed or properly justified as a sole-source, which requires market research of three competitors. She recalled that the b6 had conducted a Google search to canvas the local Great Lakes area for artists who did artwork for the Navy. Although she felt that the sole-source justification was "a bit irregular," because the deliverable was artwork, she felt it met the minimum requirements for her approval.

(b)(6) (b)(7)(c)

27. b6 b7c, RDML Lotring's (b)(6) (b)(7)(c) (b)(6) (b)(7)(c) stated that RDML Lotring directed b6 b7c to get b6 b7c to do the job. b6 b7c told b6 b7c that she should tell the Admiral "to step away from this whole thing, that b6 b7c will get paid" for his work. He also opined that the Admiral's intervention on the timeliness of payment was favoritism to a contractor who was his friend.

(b)(6) (b)(7)(c)

28. b6 b7c, b6, b6 b7c to RDML Lotring, stated that the Admiral gave b6 b7c "sort of a mandate," and when she offered alternative suggestions, he said he preferred "the b6 b7c model." The Admiral then put her in contact with b6 b7c, after which he (the Admiral) didn't have much to do with the contract, but at meetings he showed a lot of interest in the progress of the contract.

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I did think that the Admiral was pushing b6 [REDACTED], but my knowledge of sole-sourcing is still pretty limited....He [had] said [he wanted] a painting that [w]as of commissioning quality similar to what you'd see when they launched the USS REAGAN... I believe that he put that out first, and then she [b6 [REDACTED]] came back and didn't have something that was to his liking and that's when he put forward b6 [REDACTED].

29. b6 b7c [REDACTED] stated that when he attended the reception in the Admiral's quarters on Sunday, 17 June 2007, the night before the BST-21 Commissioning, he realized that b6 b7c [REDACTED], who were also in attendance, were "more than just acquaintances" of the Lotrings. He also believed that the b6 b7c [REDACTED] were staying overnight in the quarters.

(b)(6) (b)(7)(c)

30. b6 b7c [REDACTED], b6 b7c [REDACTED], stated that she personally wondered whether the sole-source purchase was legitimate, as there were probably other artists who could have performed the desired task. b6 b7c [REDACTED] also stated that the contract was modified to allow the vendor properly to be paid by Government credit card.

RDML Lotring's Testimony

31. RDML Lotring stated:

a. He wanted a marine artist to paint a picture of BST-21, in commemoration of its commissioning, and his friend, b6 [REDACTED] b6 b7c [REDACTED], had done numerous ship commissioning portraits. As b6 [REDACTED] b6 b7c [REDACTED] was the only marine artist with whom he was familiar, he provided b6 b7c [REDACTED] name, references, and website to his staff. He also showed a piece of b6 b7c [REDACTED] work to b6 b7c [REDACTED], who had the lead to research the website and make contact with b6 b7c [REDACTED]. If b6 b7c [REDACTED] could be used for the project, then b6 b7c [REDACTED] was to determine the specific requirements obtaining his services.

b. Because the project would involve a Government contract and the Admiral had a personal relationship with b6 b7c [REDACTED], he specifically did not get involved with the contracting process, did not see the contract, and was unaware of the cost. He made it clear to the personnel "in the outer office" who were working the details of the project, specifically the b6 [REDACTED], that he was a b6 b7c [REDACTED] of b6 b7c [REDACTED] and therefore didn't want to have anything to do with the contract. Yet, that Admiral also acknowledges that he spoke often about the project at production meetings and with his b6 [REDACTED], b6 [REDACTED], and b6 [REDACTED].

I was asked by the staff to contact b6 [REDACTED] to forward his portfolio of art work for their review as they were building the requirements for the statement of work. The statement of work does just that, says what is required for the project no matter who does

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the work. Once the SOW was received, I had no visibility on the actual contract or award. Also during the sole-source justification process, I again was not contacted by the b6 , b6 or b6 with any concerns as to the contract process and issues dealing with the sole source. And my understanding was, after the presentation of the painting, that the OGC demanded that b6 provide the original prints as part of the contract, which is very unusual... Although it appeared to be a contentious part of the contracting process, I was not involved.

Once the process of determining how the contract would be executed, including writing the contract, meeting all of the requirements to hire an artist and ensuring that it met all requirements of single source, I was not involved... I never reviewed any contracts, was not aware or involved in any ongoing negotiations with b6 on any matters with the contract and had no signature authority on any documents.

c. The Admiral was aware that b6 b7c , his b6 b7c , reviewed the contract. It was b6 b7c responsibility to execute the project in general, and b6 b7c , the b6 , was responsible for determining the rules to be followed in the contracting process. The Admiral never spoke about the project to b6 b7c during the contracting process, but spoke with him after the contract was awarded, when b6 b7c visited BST-21 to do some sketches.

d. A copy of the artwork is in the CNO's office, and the original is at NSTC headquarters. Prints were distributed to guests at the ceremony as a "public affairs outreach."

e. For some time after the commissioning, b6 b7c communicated with the command about not receiving payment for the artwork he provided. This issue was probably first raised at one of the weekly staff meetings. Since not paying a vendor in a timely fashion would reflect poorly on the command, the Admiral spoke to the b6 about resolving the issue. He also addressed the matter in his monthly meeting with the Comptroller. The Admiral has no recollection of increasing the urgency of paying b6 b7c or otherwise compelling payment to him outside the regular contracting process.

Applicable Standards

32. The Standards of Ethical Conduct (5 CFR Part 2635), Section 2635.702, "Use of Public Office for Private Gain," provides:

a. Subsection 702(a):

Inducement or coercion of benefits. An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends,

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relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

b. Subsection 702(d):

Performance of official duties affecting a private interest. To ensure that the performance of his official duties does not give rise to an appearance of use of public office for private gain or of giving preferential treatment, an employee whose duties would affect the financial interests of a friend, relative or person with whom he is affiliated in a nongovernmental capacity shall comply with any applicable requirements of Sec. 2635.502.

33. The Standards of Ethical Conduct (5 CFR Part 2635), Section 2635.502, "Personal and Business Relationships," provides:

(a) *Consideration of appearances by the employee.* Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee....

Analysis

34. The issue here is not whether there was a violation of any Procurement Acquisition Regulation, but rather whether there was undue influence by RDML Lotring to induce his staff to ensure a b6 b7c of his received a Government contract. Command Counsel and the FISC Contracting Officer properly scrutinized the contracting process, to include the sole-source justification, to ensure it was technically legitimate.

35. Nonetheless, it is clear that RDML Lotring aggressively used his position to intimidate his staff to guarantee the contract was awarded to b6 b7c. The Admiral admits his b6 b7c with b6 b7c, which he recognized was a potential conflict of interest. He stated that he "made it clear" to those who were working the details of the project that since b6 b7c was a b6 b7c he didn't want "to have anything to do with the contract." While the Admiral made his personal friendship known to his personal staff, he failed to communicate this information to b6 b7c, who was working the issue of sole-source justification. Further, in seeming contradiction of his stated intent to distance himself from the matter, he also acknowledged that it was only after "the process of determining how the contract would be executed, including writing the contract, meeting all of the requirements to hire an artist, and ensuring that it met all requirements of single

source" that he was "not involved." His intense interest in awarding the contract to b6 b7c, and no one else, however, is evidenced by his communications with b6 b7c, b6 b7c, and others, between 7 March 2007 and 11 April 2007, when the sole-source justification was signed. In particular, in his e-mail of 2 April 2007, the Admiral told b6 b7c that he wanted to "justify using" him "exclusively."

36. We find that the collective testimony of the b6, b6 b7c, b6 b7c, b6, and b6 b7c is compelling. They clearly perceived that the Admiral was pushing the contract to his b6 b7c, b6 b7c. The effort of the Public Affairs staff to canvas the marketplace was pro forma, and the b6 signed the sole-source justification in exasperation and for the sake of expediency, as she knew from the onset that the Admiral could not "be dissuaded" from awarding the contract to b6 b7c.

37. We also find that the Admiral had a covered relationship with b6 b7c for purposes of subsections 502 and 702(d) of 5 CFR 2635. As such, through his forceful and repeated involvement in the selection of b6 b7c for the Government contract, he improperly performed official duties affecting a private interest of a person with whom he had a covered relationship. He did so without first disclosing the relationship to the appropriate authority and receiving authorization to act in this matter, as he was required to do.

Conclusion

38. The allegation is substantiated.

Allegation #2: That RDML Lotring improperly used two of his Enlisted Aides, as well as other military personnel, to support unofficial social functions not connected with his (RDML Lotring's) military duties or responsibilities, in violation of the Standards of Ethical Conduct (5 CFR Part 2635, Subsections 302(b), 702(a), 704, and 705(b)), DoD Instruction (DODI) 1315.09, and OPNAVINST 1306.3B.

Findings of Fact

Regulatory Framework

39. Enlisted Aides are volunteer enlisted members detailed to specifically identified Flag Officers. Congress has imposed significant limits on the number of enlisted members who may be assigned as Enlisted Aides, and the majority of Flag Officers do not have one. As provided in SECNAVINST 1306.2D, Enlisted Aides are unique in that they may perform certain duties that "relieve the Flag Officer of performing minor tasks and details which if performed by the officer would be at the expense of his primary

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military and official duties." The instruction goes on to provide:

Authorized Enlisted Aide duties are those that have a reasonable connection to the military and official responsibilities of those officers with Enlisted Aides assigned, including assistance in discharging official DOD social responsibilities that inhere in certain flag and general officer positions.

This authority allows Enlisted Aides to perform duties that would be considered unofficial personal services, and therefore prohibited, if any other service member performed them.

40. This authority, however, is limited by DODI 1315.09, which provides: "No officer may use an enlisted member as a servant for duties that contribute only to the officer's personal benefit and have no reasonable connection with the officer's official responsibilities." OPNAVINST 1306.3B provides specific guidance on social functions Enlisted Aides may support in their official capacity:

Flag Officers may use Enlisted Aides to support social functions that are reasonably connected to the officers' military and official duties and responsibilities. Social functions, even if not official, may satisfy the lower standard of "reasonable connection" to the Flag Officer's military or official duties. In such cases, Enlisted Aides may be used to support an event, even when the event is not otherwise eligible to be supported with appropriated funds or otherwise eligible to be supported with appropriated funds or use of Government resources.

41. Given this guidance, there are basically three classes of social events a Flag Officer with an Enlisted Aide may hold at his quarters:

a. Official. These are events that may be supported with Government resources. For such events, the Flag Officer may not only use his or her Enlisted Aide, but may also use other personnel, both officer and enlisted. An example of such a function is one that may be supported by Official Representation Funds pursuant to SECNAVINST 7042.7K.

b. Unofficial social functions reasonably connected to the Flag Officer's military or official duties. For such events, the Flag Officer may use his or her Enlisted Aide as part of the Aide's official duties. If other personnel are used, it must be on a voluntary basis, on their off-duty time, and they must receive reasonable compensation commensurate with the services rendered. Examples include functions that improve morale, promote spirit de corps, and develop interpersonal relationships, such as an officer hail and farewell.

c. Unofficial events not connected to the Flag Officer's duties. For such events no Government resources may be used,

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including an Enlisted Aide. An Enlisted Aide or other service member may support such an event, however, they must volunteer on their off-duty time and receive reasonable compensation commensurate with the services rendered. Examples of such events include a birthday party for a spouse or child and entertaining family and friends.

Background

42. RDML Lotring entertained regularly in his quarters while serving as CNSTC. These social events included all three types of events discussed above (official, unofficial but reasonably connected to his duties and responsibilities, and unofficial). In investigating the allegations against RDML Lotring, it became clear many of the witnesses did not understand what makes an event fall into these different categories. This resulted in witnesses complaining about working events that were clearly either official or in the reasonably connected category. Accordingly, in the interest of efficiency, this report will address only those social events whose status was legitimately in question. Those events were:

- a. A dinner party for b6 b7c and b6 b7c .
- b. A dinner party for b6 and b6 b7c .
- c. Two lunches and a dinner for b6 and b6 b7c .
- d. A dinner party for b6 b7c .
- e. A 4th of July party in 2008 for the b6 b7c .
- f. Two dinner parties for b6 b7c .

43. On 28 August 2007, RDML Lotring requested his b6 b7c b6 b7c , b6 b7c , b6 b7c b6 , b6 , Regional Legal Service Office (RLSO), Midwest, to provide him with guidance on what constituted an "official" social function in his quarters. The guidance was provided by letter of 4 October 2007, by b6 b7c b6 b7c relief, b6 b7c , b6 b7c , b6 . Pertinent excerpts are as follows:

When hosting social events in Government quarters, Commander NSTC (CNSTC), maintains an ongoing obligation to protect and conserve Federal property and use it only for authorized activities.... Determining whether a social event qualifies as "official" falls to the Commander, who must consider its purpose.

If a social function is not official, yet reasonably connected to CNSTC's military and official duties, he may use his Enlisted Aide. Apart from the Enlisted Aide, any off-duty military personnel used must be hired on a voluntary basis and paid a wage "reasonable and commensurate" with the services provided -- in other words, local market rates.

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If the social function is solely of a personal nature, no official resources are authorized, and all military personnel used (including the Enlisted Aide) must be paid using the "reasonable and commensurate" standard.

Culinary Specialists cannot be used in support of a non-official function, even if reasonably related to the flag officer's military and official duties. [Enlisted Aides], however, may be used to support such an event....Just as with purely personal social events, however, the Flag Officer can hire off-duty military personnel on a voluntary paid basis at the going market rate for the services rendered.

There are numerous social functions that do not qualify as "official" events and yet are reasonably connected to a Flag Officer's military or official responsibilities....[A]lthough the functions may be substantially more than mere personal events, the use of official resources, including personnel apart from the [Enlisted Aide], is not authorized....[N]othing preclude[s] "the employment of enlisted personnel by officers on a voluntary, paid, off-duty basis."

44. b6 b7c [REDACTED] stated that she specifically reviewed the question of the Enlisted Aide preparing and cooking meals for the Thursday night functions in the Admiral's quarters. Even though they were not ORF-funded events, they were official functions, because the Admiral, in his official capacity, was entertaining people who would be participating in the "pass and review" at the RTC graduations.

45. RDML Lotring had three different Enlisted Aides during his tenure as CNSTC: b6 b7c [REDACTED], b6 b7c [REDACTED] and b6 b7c [REDACTED]. b6 b7c [REDACTED] served as RDML Lotring's Enlisted Aide from November 2006 until October 2007, when he was (b)(6) (b)(7)(c) [REDACTED]. b6 b7c [REDACTED] then filled in as a temporary Enlisted Aide until the arrival of b6 b7c [REDACTED]. b6 b7c [REDACTED], who had received no Enlisted Aide formal training at that point, had no complaints about how the Lotrings employed her. b6 b7c [REDACTED] and b6 b7c [REDACTED], however, each felt that there were instances of the Admiral having them perform duties outside the scope of their responsibilities and not in accordance with the Enlisted Aide Manual.

b [REDACTED] was a b6 [REDACTED] at the time she served as RDML Lotring's temporary Enlisted Aide, but was promoted to b6 b7c [REDACTED] during her follow-on assignment. She will be referred to as b6 [REDACTED] for consistency purposes throughout this report.

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Hosting Friends/Unofficial Guests

b6 b7c

46. b6 b7c stated that "many times" he prepared meals for the Admiral's family and friends, and on four specific occasions the Admiral asked him to support informal social events in the quarters that were not in accordance with the Enlisted Aide manual. Unfortunately, he had only vague recollections of those occasions and could not articulate much detail about any one of them. Moreover, although he kept a binder of "events" in quarters, his records were incomplete.

47. b6 b7c recalled that in April 2007, when b6 b7c, the b6 b7c, told him to plan to prepare a meal for b6 b7c. b6 b7c in the Admiral's quarters, he replied that the b6 b7c were the Lotrings' personal friends. b6 b7c replied that the dinner was a "business" function and insisted that the (b) (6) support it. A while later, b6 b7c seemed to change his mind and told the b6 b7c just to "stand by." Then b6 b7c approached the b6 b7c and asked if he would mind "prepping everything," so all she'd have to do is the actual cooking. She told him that the b6 b7c were good friends of theirs, whom they had known for several years. He ended up preparing the hors-d'oeuvres, but b6 b7c served them, and the Admiral threw the steaks on the grill. They did not require b6 b7c to stay to serve or to clean up.

48. b6 b7c stated that b6 b7c told him that she was "a big NASCAR racing fan." He told her that, if she would like, he would be happy to prepare and serve a dinner in the quarters for the b6 b7c and the owners of the "BAM" racing team, b6 b7c and b6 b7c, who were friends of his, when they were in the local area for a race. She accepted his offer and even invited him to join them socially, but he declined, as that would make him feel uncomfortable. The b6 b7c hosted his friends on Saturday, 14 July 2007, but didn't compensate him for his service.

b6 b7c

49. b6 b7c was frustrated over his perception that the Admiral improperly hosted individuals in a non-official capacity and used him to support those functions.

50. b6 b7c stated that b6 b7c told him never to tell the Admiral "no."

I know the Enlisted Aide handbook pretty well because that's something that was given to me to read. And there were certain things, like, I'm not sure I'm suppose to be doing the dishes for the wife and the daughter.... And the b6 b7c Aide said, "You know, b6 b7c got in a lot of trouble with pointing the instruction out to the Admiral and his wife, so you don't do that."

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51. [REDACTED] resented the fact that he prepared and served two lunches and one dinner for [REDACTED], personal friends of RDML Lotring. The Admiral introduced [REDACTED] as his "buddy" who sold fire trucks.⁷

Admiral Lotring had friends come into town...on a Thursday [morning]. But they came in for the boot camp graduation.... And I had to do a lunch, dinner, and a lunch for them while they were there. Admiral Lotring took leave so he could spend Thursday showing his friends Chicago, and he went and got them from the airport.... The reason that I thought [this] was weird is any time we have an official guest, like someone that's coming to a dinner or lunch, and they're flying in, our driver always went and got them....

The reason that was given to me was...that they [were] official because Admiral Lotring made them the guest of honor for graduation. And I said, "But since I've been here, we've never once had a guest of honor come for a lunch, let alone a lunch, dinner, and a lunch, while sleeping in the quarters." So I was a little confused as to why I had to do three meals for what I feel were his personal friends if they're staying in your house. And you don't just let a guest stay in your house that is visiting that you don't know. No one else the whole time that I was here ever stayed in that house other than those two people. ...I didn't understand how we didn't have a dinner for the reviewing officer that week; we didn't invite the VIP over; but then we had three meals for the guest of honor.

52. [REDACTED] suspected that the Admiral hosted [REDACTED] for dinner one evening in an unofficial capacity.

[T]hat was another one where the Admiral went and got him, so it stuck out in my mind because again, any time it was an official guest, the driver would always go get him and drop him off for dinner...he's a businessman civilian....

53. [REDACTED] also recalled working a party on the 4th of July 2008 at the Admiral's house. He opined that it wasn't an official function, and so he and other enlisted personnel assisting him should have been compensated for their services, but weren't.

⁷ NSTCNOTE 5050 Ser N003 of 25 June 2008, Subj: Recruit Graduation Ceremony of 27 June 2008, shows the [REDACTED] was [REDACTED], [REDACTED] [REDACTED]; the [REDACTED] r was [REDACTED], [REDACTED]; the [REDACTED] was [REDACTED], [REDACTED] [REDACTED]; and [REDACTED] was one of three other VIP Guests.

a. Since RDML Lotring had hosted the previous base-wide Christmas party, [REDACTED] hosted the base-wide 4th of July party. RDML Lotring had offered his house to [REDACTED] to use for the party, but [REDACTED] decided to have the party catered on the beach. RDML Lotring then decided to have his own 4th of July party for his staff, at his quarters, which he used as a "Hail and Farewell" for b6 b7c [REDACTED] and his relief, as well as an awards ceremony for b6 b7c [REDACTED], b6 [REDACTED].

b. The event was a barbeque for approximately 100 people, most of whom were military. b6 [REDACTED] [REDACTED], b6 [REDACTED], would have provided assistance, but was sick and could not attend. RDML Lotring knew that b6 b7c [REDACTED] needed help and was comfortable with him asking for the assistance of b6 b7c [REDACTED] (from RTC), because b6 b7c [REDACTED] had recommended her. b6 b7c [REDACTED] brought her [REDACTED] to help for about two hours, setting up tables in the yard, decorating, etc. She returned to work at the event for another 4-5 hours, cooking and keeping the buffet full.

c. b6 b7c [REDACTED], also from RTC, helped for approximately 30 minutes in the morning. RDML Lotring was in the house when b6 b7c [REDACTED] arrived, but he may not have known in advance that she going to provide assistance.

54. b6 b7c [REDACTED] stated that there was some issue over whether it was proper for RDML Lotring to host a couple of representatives of GE Healthcare in his quarters for dinner. b6 b7c [REDACTED] questioned whether there might be a problem based on a contractual relationship between GE and the Government.

b6 b7c [REDACTED]

55. b6 b7c [REDACTED] stated that her friend b6 b7c [REDACTED], who always helped the Lotrings with parties, was in the process of being transferred, when he encouraged her to be his replacement at the Lotrings' 4th of July party. He introduced her to b6 b7c [REDACTED], who approved her helping with the party and told her to bring her family. b6 b7c [REDACTED] further stated:

a. She arrived at the Lotrings' house early around 0730 with b6 b7c [REDACTED] and b6 b7c [REDACTED] to set up tables, chairs, and croquet in the yard. RDML Lotring spoke with her and the boys as they were setting-up. They finished around 1100 or 1130.

b. She returned later for the party along with her [REDACTED], [REDACTED], and [REDACTED] for approximately four hours, during which time she worked the grill and maintained the food table. After the guests ate and the fireworks began, she and her [REDACTED] and [REDACTED] cleaned up the food, tables, and chairs while the Lotrings and guests watched the show.

c. She wasn't compensated monetarily, but was allowed to have a premiere parking spot in front of the Lotrings' house, so

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her [REDACTED] could come and go, and her family was able to watch the fireworks show.

b6 b7c [REDACTED]

56. [REDACTED] b6 b7c stated that, since she had the day off and she knew [REDACTED] b6 b7c needed help setting up for the 4th of July 2008 party at the Admiral's quarters, she volunteered to help him set up tables in the morning. She worked there for approximately a half hour and received no payment.

b6 b7c [REDACTED]

57. [REDACTED] b6 b7c was concerned that the Admiral wasn't properly compensating staff members for supporting what might be construed as unofficial social events in his quarters. [REDACTED] b6 b7c [REDACTED] b6 b7c had given [REDACTED] b6 b7c a point paper that set forth the Admiral's requirement to pay fair market value to personnel who provided assistance in supporting some of the events.

RDML Lotring's Testimony

58. RDML Lotring stated that he never had an unofficial party at which he used staff support. He did, however, host unofficial guests, and on occasion when the Enlisted Aide would serve him (the Admiral) his meal, he (the Enlisted Aide) would also serve the guests who were dining with him. The Admiral received no pushback from any of his Enlisted Aides regarding what he expected of them, to include preparing and serving meals for his guests.

Hosting [REDACTED] b6 b7c Racing Friends

59. The Admiral stated that since [REDACTED] b6 b7c was a professional auto racing enthusiast, [REDACTED] b6 b7c asked the Lotrings if they would host two of his own friends, "[REDACTED] b6 b7c and [REDACTED] b6 b7c," who were race car owners and would be attending a racing event locally in Joliet, IL. [REDACTED] b6 b7c was asking that the Admiral host them as a favor to him, as the Lotrings didn't know his friends. The Admiral bought the food for the occasion, and on one Saturday evening [REDACTED] b6 b7c voluntarily prepared and served [dinner to] the guests and the Lotrings in his quarters. [REDACTED] b6 b7c did not join them in eating the dinner, but he wore his White House jacket, which "contributed to the ambience" of the event. Saturday was usually a non-work day for the [REDACTED] (b)(6) (b)(7)(C), and the Admiral didn't remember whether he compensated him by giving him a day-off during the week.

Hosting [REDACTED] b6 b7c

60. The Admiral stated that he met [REDACTED] b6 b7c in 1996 in Connecticut, and the Lotrings and [REDACTED] b6 b7c became friends. [REDACTED] b6 b7c [REDACTED] b6 b7c [REDACTED] b6 b7c did some artwork for the Admiral when he was at the Submarine Learning Center in Groton,

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CT. On 26 April 2007, b6 b7c visited Great Lakes to commence the artwork project for the BST-21 Commissioning, at which time (Thursday evening) the Admiral hosted him, along with the RTC-graduation Reviewing Officer, in his quarters.⁸ The following day, the Admiral also hosted b6 b7c for lunch in his office. On 17 June 2007, b6 and b6 b7c attended the ORF-funded reception in his quarters the night before the BST-21 Commissioning.

Hosting b6 and b6 b7c

61. The Admiral corroborated that the Lotrings are also friends of b6 and b6 b7c, members of the volunteer firefighters in CT, whom they have known for six years.⁹ The b6 b7c visited the Lotrings in June 2008 and stayed overnight with them in their quarters. The Admiral went to work on Thursday morning, 26 June, and then picked the b6 b7c up at the airport in the afternoon. The Admiral was the speaker at the RTC graduation the next day, 27 June, and b6 b7c was in the official party as one of the guests of honor. The Admiral spent the weekend with the b6 b7c, and they left on a Monday. The Enlisted Aide prepared and served meals (lunch and dinner on Thursday, and lunch on Friday) for the Lotrings and the b6 b7c, who dined together.

Hosting Civilians in the Learning Industry

62. The Admiral stated that on various occasions, he hosted civilian "officers" in the learning industry in his quarters. He further recounted:

⁸ b6, b6 b7c, Naval Special Warfare Group FOUR, Naval Amphibious Base Little Creek, Norfolk, VA, was the b6 b7c and b6 b7c on 27 April 2007. His b6 b7c b6 b7c accompanied him as the b6 b7c. They arrived in Great Lakes at approximately 2100 on the 26th and proceeded directly to on-base lodging. They didn't have any scheduled social events that evening. b6 b6 b7c stated that he and the b6, b6, did the "pass and review" at the graduation, and he didn't recall any Flag Officers present for the graduation. b6 didn't have any reason to go to RDML Lotring's quarters during his 2-day visit.

⁹ The Admiral's calendar shows he was on leave on 26-27 June 2008; no business was scheduled, other than a 15-minute daily brief with the b6 at 0700 and lunch in his quarters each day. NSTCNOTE 5050 of 25 June 2008 shows the RTC graduation b6 b7c (who was also the b6 b7c), the b6 b7c, and the b6 b7c, each scheduled for "personal time" on Thursday evening; two other guests ("VIPs") arriving on Friday; and b6 (the third VIP guest), b6 b7c, New England Fire Equipment & Apparatus Corporation, departing the Admiral's quarters (with the Admiral) on Friday morning and returning to the Admiral's quarters (with the Admiral) after the graduation. (b)(6) also attended the graduation.

a. He sponsored a consortium event attended by b6 b7c and others in the industry, such as IBM, Xerox, and GE, who visited RTC on 16 June 2008. In his capacity as the event sponsor, the Admiral had b6 b7c join him for dinner in his quarters. b6 b7c is the head of the Masie Center in Saratoga, NY, which is a "think tank" focused on how organizations can support learning and knowledge within the workforce. He leads the Learning Consortium, a coalition of 240 Fortune 500 companies cooperating on the evolution of learning strategies.

I would consider him an acquaintance more so than a friend. I actually met him after hearing about him from his work with CNO ADM Vern Clarke in the Navy Revolution in Training effort. He visited me once in Groton, CT, and then again in Great Lakes. I probably talk with him 3-4 times a year. NETC/NSTC is a member of his learning consortium.

The gathering in June 08 was a meeting of some of his Learning Consortium members. b6 b7c, my Learning Strategy Department Head, actually helped support the consortium meeting at Great Lakes. I did not attend the entire day but spoke with the Group in the morning and answered questions about how the Navy conducts accessions training and what are our challenges in the future.

b. In August 2007, a GE Healthcare group visited NSTC to look at learning techniques and attend an RTC graduation. Among them were b6 b7c, b6 b7c, b6 b7c, GE Healthcare Institute at GE Healthcare in Wisconsin, and b6 b7c, also from GE. The Admiral hosted them, along with personal friends [b6 b7c, b6 b7c] and his b6 b7c that evening for dinner in his quarters. b6 b7c was also one of RDML Lotring's junior officers aboard the USS ANNAPOLIS in the early 1990s; they remain in close contact as friends.

c. In July 2008, he again hosted b6 b7c, along with one of his employees, b6 b7c, in his quarters. He was unaware of any counsel by b6 b7c that hosting b6 b7c in his home would be a potential conflict of interest, due to the Government's contractual relationship with GE Health Care, despite the fact that NSTC had no contractual relationship with them.¹⁰

¹⁰ b6 b7c stated that she opined to b6 b7c and b6 b7c that the Admiral's hosting a representative of GE Healthcare for a meal in his quarters was inappropriate, "given the contractor status of GE," unless there was a personal relationship between him and his guest. Although b6 b7c didn't speak directly to the Admiral about this issue, her opinion was passed to him. He weighed the risks and proceeded to host the representative anyway. Although b6 b7c thought there might be an issue of an appearance

4th of July 2008 Barbeque

63. RDML Lotring stated that he held a reception prior to the 4th of July fireworks on base for his staff and their families, which was unrelated to the 4th of July Region party hosted by [REDACTED]. RDML Lotring further stated:

a. He didn't request extra military resources to augment the support provided by his Enlisted Aide, and he paid for "all the resources to conduct the affair," which cost approximately \$500; he didn't "compensate anyone personally."

b. [REDACTED], who worked at RTC, volunteered to help with the event, after [REDACTED] could not attend. [REDACTED] wanted to attend the event with her family (and did) and "thus volunteered" to help. Afterwards, the Admiral sent her a personal note of thanks.

Applicable Standards

64. The Standards of Ethical Conduct (5 CFR Part 2635) provide the following:

a. Subsection 302(b), concerning gifts from subordinates, states:

[A]n employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself...

b. Subsection 702(a), concerning Use of Public Office for Private Gain, states:

Inducement or coercion of benefits. An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

c. Subsection 704, concerning use of Government property, states:

An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.

d. Subsection 705(b), concerning Use of a Subordinate's Time, states:

of favoritism, she didn't think the Admiral was in a position to give any work to the contractor.

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An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

65. DODI 1315.09, paragraph 5.1, concerning utilization of enlisted personnel on personal staffs of Flag Officers, states:

No officer may use an enlisted member as a servant for duties that contribute only to the officer's personal benefit and have no reasonable connection with the officer's official responsibilities.

66. OPNAVINST 1306.3B, paragraph 7, concerning impermissible duties for an Enlisted Aide, states:

No Flag Officer may utilize an Enlisted Aide for duties that have no reasonable connection with the officer's military or official duties or that contribute solely to the personal benefit of individual officers or their families.

Analysis

67. [b6 b7c] properly questioned the Flag Aide's statement that hosting the [b6 b7c] in the Admiral's quarters was "business" related. Despite [b6 b7c] being awarded a contract on 26 April 2007, dinner in the Admiral's quarters that evening was for the purpose of entertaining a personal friend and was unrelated to the Admiral's official duties. [b6 b7c] viewed it correctly as a function solely of a personal nature. The Admiral's assertion that hosting [b6 b7c] was coincident with the routine Thursday night reception for the RTC graduation Reviewing Officer is inconsistent with the fact that the Reviewing Officer was neither invited to, nor attended, the dinner in the Admiral's quarters. While [b6 b7c] recalls some controversy over the propriety of his supporting that function, and eventual capitulation by [b6 b7c], he nonetheless prepared the hors-d'oeuvres and assisted as necessary. Consequently, he was required to prepare for an unofficial personal function for RDML Lotring on Government time.

68. In connection with dinner party for [b6] and [b6 b7c] [b6 b7c] ([b6 b7c]), it appears there may have been a misunderstanding as to who was doing whom a favor. [b6 b7c] broached the entertainment idea with the Lotrings, thinking he was doing them a favor. RDML Lotring testified he thought he was doing [b6 b7c] a favor. RDML Lotring invited [b6 b7c] to eat with them, which supports the idea that RDML Lotring viewed this as a favor to [b6 b7c]. Given the evidence, although this was an unofficial event, we consider that the Lotrings

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considered it as a favor to b6 b7c and that he truly volunteered to work the event.

69. b6 and b6 b7c were personal friends and guests of the Lotrings. The inclusion by RDML Lotring of b6 b7c as a guest of honor at the graduation did not transform that relationship, and we do not consider RDML Lotring's entertainment of the b6 b7c as being reasonably connected to his military and official responsibilities. Consequently, functions with the b6 b7c (two lunches and one dinner) were unofficial events, and the Enlisted Aide (b6 b7c) should only have prepared for and served the b6 b7c if it were voluntary, on his own time, and with compensation, none of which was the case.

70. b6 b7c, the leader of a "Learning Consortium...of 240 Fortune 500 companies cooperating on the evolution of learning strategies," was attending an event sponsored by NSTC. Although b6 b7c was a personal friend of RDML Lotring, his position in the educational field was such that it was appropriate for RDML Lotring to have him over for dinner and the function would qualify as reasonably connected to his military and official responsibilities.

71. RDML Lotring's 2008 4th of July barbeque is considered an unofficial event, but reasonably connected to his military and official duties. It was basically a wardroom "Hail & Farewell." Therefore, he could use his Enlisted Aide to support the event, but other personnel had to be volunteers and compensated at a reasonable rate for the services performed. b6 b7c worked a substantial amount of the day on the event, enlisting the help of her family. The "thank you" note she received is not considered reasonable wages commensurate with services provided. Although there is evidence that b6 b7c also provided uncompensated support to this unofficial function, RDML Lotring did not request this and there is no indication he was aware of it.

72. b6 b7c is the b6 b7c for the General Electric Health Care Institute in Wisconsin. Although b6 b7c was a personal friend of RDML Lotring, his position in the educational field was such that it was appropriate for RDML Lotring to have him over for dinner and the function would qualify as reasonably connected to his military and official responsibilities.

73. In summary, the events involving b6 b7c and b6 b7c, as well as the 4th of July party, were reasonably connected to RDML Lotring's military and official responsibilities, and the Enlisted Aide could properly support them as part of his official duties. It was inappropriate, however, for RDML Lotring to have b6 b7c provide substantial uncompensated support for the 4th of July event, even if it may have been voluntary. The lunches and dinners involving the b6 b7c and the b6 b7c were unofficial and not reasonably connected to RDML

Lotring's military or official duties. Finally, although the b6 b7c event was unofficial, the evidence is such that it is reasonable to assume that the Lotrings were doing b6 b7c a favor and the event was not for the personal benefit of RDML Lotring.

Conclusion

74. The allegation is substantiated as it relates to misuse of the Enlisted Aide for the dinners and lunches involving the b6 b7c and b6 b7c, and misuse of an enlisted member (b6 b7c) in supporting the 2008 4th of July party.

Allegation #3: That RDML Lotring improperly used his Enlisted Aides to perform duties solely for his personal benefit and not connected to his military or official duties or responsibilities, in violation of the Standards of Ethical Conduct (5 CFR Part 2635, Subsections 302(b), 702(a), and 705(b)), DODI 1315.09, and OPNAVINST 1306.3B.

Findings of Fact

75. We examined three fact scenarios involving the alleged misuse of (b)(6) (b)(7)(c) for services personally benefiting RDML Lotring or his family:

a. Shopping for RDML Lotring's (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) while RDML Lotring attended CAPSTONE;

b. Cleaning the dishes for RDML Lotring's (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) while he was at CAPSTONE; and

c. Cleaning up after pets.

Grocery Shopping for RDML Lotring's (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c).

76. RDML Lotring attended CAPSTONE from 13 April to 22 May 2008. He was not expected to nor did he return to his Quarters during this period. His (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c), who at the time was over 21 and not attending college, continued to reside in Quarters AA during the Admiral's absence. In connection with shopping for the (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c), (b)(6) (b)(7)(c) testified:

I didn't do any cooking [while RDML Lotring was at CAPSTONE]. I did do grocery shopping a few times because there's a set list that while the Admiral's there, they want in the house. And I was like, well, he's not here, so why should I have to refill the things that run out? I mean, if I was gone, my (b)(6) (b)(7)(c) would go grocery shopping. And (b)(6) (b)(7)(c) was like, just buy what's on the list and keep that in the house regardless of if he's there. I

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said, but I'm not the one exhausting it. I'm not using it for my cooking. It's getting eaten by other people. But that was a battle I lost as well.

77. RDML Lotring was aware of a problem with (b)(6) (b)(7)(c) grocery shopping while he was at CAPSTONE. He defended the requirement that (b)(6) (b)(7)(c) shop for his (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) groceries, testifying:

He (b)(6) (b)(7)(c)] didn't do any of the shopping for a while and the issue was he -- he kept a separate account that we gave him the money to do the shopping. So basically if he didn't do the shopping and my (b)(6) (b)(7)(c) was there, there would be nothing in the house....

He should keep food in the house normally. It doesn't -- you know it -- if I came home three days later, it shouldn't be three days later until I get food back in the house. There should be food in the house to maintain, you know, the house. If we had to entertain or something I mean there should be food. It shouldn't go empty.

There was a normal shopping list that is supposed to be maintained. It's just like cleaning the house. He doesn't stop cleaning because I'm not there.

78. As ordered, (b)(6) (b)(7)(c) did grocery chopping for RDML Lotring's (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) while RDML Lotring was at CAPSTONE.

Cleaning the Dishes for RDML Lotring's (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c)

79. (b)(6) (b)(7)(c) testified that he was required to do the dishes for RDML Lotring's (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) while the Admiral was at CAPSTONE. He stated:

[T]he Admiral's at a flag conference for, you know, three weeks. Why do I have piles of dishes everywhere, and I'm getting told I have to clean them, and I'm getting yelled at, getting my hours extended, because dishes are not getting cleaned?

Case in point, example, is I don't mind cleaning dishes, you know. No big deal. But when I come in on a Monday from a weekend, you know, and there's a Mexican rice type pan just burnt to all hell, not even soaking, just sitting on the counter, like, here, bitch, clean that, you know, that's just -- that's how it felt to me.

I mean, if you're going to burn the hell out of a pan, you should at least put a little water in it, let it soak, so that when I come in I have a chance to clean it right. I mean, it was just -- there was no respect, is how I felt. It was like the most demeaning thing when you walk in every day and there's just

a pile of dishes waiting for you, saying, hello. And that's how it was every day.

When the Admiral's not there, my responsibilities as far as dishes and cleaning up after food items in the kitchen go away from -- because I clean up after him and his dishes and his mess. And it gets in with theirs, so I clean everything when he's here. When he's not there, none of the mess is his.

80. (b)(6) (b)(7)(c) testified:

(b) (b) came to me and told me about the dish issue. And I tried to be as sympathetic as possible. I felt that the Admiral would have not been very keen to hear about [that] particular complaint. I asked (b)(6) to take care of the dishes and, yeah, I asked him to take care of the dishes.

81. RDML Lotring testified that he was unaware that (b)(6) (b)(7)(c) was doing the dishes for his (b)(6) and (b)(6) (b)(7)(c). He indicated, however, that (b)(6) (b)(7)(c) had a responsibility to keep the house clean even when he is not there, which would include cleaning up dishes in the kitchen.

Cleaning Up after Pets

82. While RDML Lotring was at CAPSTONE, (b)(6) (b)(7)(c) was confronted with a conflict between his cleaning duties and the prohibition against pet care. (b)(6) (b)(7)(c) testified:

[RDML Lotring's (b)(6) (b)(7) had a cat that was a pain in the butt. It got hair everywhere because it was a little furball, and it crapped all over the house.... It had a Government chair that it just loved to crap on. And I guess it got its scent on it one time, and it just always went back there and crapped. ...I told (b) (b) that that was something that I know I wasn't supposed to do, and he actually -- because it sat there, because the piles would just build up. And this is only when Admiral Lotring was gone.

83. Although (b)(6) (b)(7)(c) did not clean up the cat feces, (b)(6) (b)(7)(c) cleaned up the mess fearing that he could not tell the (b)(6) (b)(7)(c) to take care of her pet. He then e-mailed RDML Lotring his concerns.

84. RDML Lotring indicated that he was initially unaware of the problem, and he agreed that none of his staff should need to clean up after his pets. After it was brought to his attention, the problem did not recur.

Applicable Standards

85. The Standards of Ethical Conduct (5 CFR Part 2635) provide the following:

a. Subsection 302(b), concerning gifts from subordinates, states:

[A]n employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself...

b. Subsection 702(a), concerning Use of Public Office for Private Gain, states:

Inducement or coercion of benefits. An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

c. Subsection 705(b), concerning Use of a Subordinate's Time, states:

An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

86. DODI 1315.09, paragraph 5.1, concerning utilization of enlisted personnel on personal staffs of Flag Officers, states:

No officer may use an enlisted member as a servant for duties that contribute only to the officer's personal benefit and have no reasonable connection with the officer's official responsibilities.

87. OPNAVINST 1306.3B, paragraph 7, concerning impermissible duties for an Enlisted Aide, states:

No Flag Officer may utilize an Enlisted Aide for duties that have no reasonable connection with the officer's military or official duties or that contribute solely to the personal benefit of individual officers or their families. The following are examples...of duties that have no reasonable connection to an officer's military or official duties and therefore are not appropriate duties for Enlisted Aides:

a. Any form of pet care....

f. Any personal services solely for the benefit of family members or unofficial guests including...shopping....

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Analysis

88. RDML Lotring was aware and expected that (b)(6) (b)(7)(c) would grocery shop for his (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) while he was at CAPSTONE. His argument that the shopping was necessary to keep the pantry stocked in case he came home and had to entertain at a moments notice is unconvincing. Shopping for the sole benefit of family members and guests is a violation of the letter and spirit of OPNAVINST 1306.3B and DODI 1315.09. It is also a violation of the Standards of Conduct, in that RDML Lotring used his official position to induce a subordinate to do personal services for his family members. Accepting these services from (b)(6) (b)(7)(c) also constituted accepting a prohibited gift from a subordinate.

89. Although not enumerated in the specific prohibitions in OPNAVINST 1306.3B, cleaning the daily dishes of family members when the Flag Officer is on extended TDY is considered a violation of the spirit of that instruction, as well as DODI 1315.09. We disagree with RDML Lotring's feelings that such duties were part of the Enlisted Aide's cleaning responsibilities regardless of his presence. Nonetheless, there is insufficient evidence to establish that RDML Lotring was aware of the issue at the time, or in anyway addressed it.

90. RDML Lotring was unaware of the pet care issue, and when it was brought to his attention, it appears he solved the problem within his own family.

Conclusion

91. The allegation is substantiated as it relates to RDML Lotring's misuse of the Enlisted Aide to grocery shop for his (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) while he was on extended TDY.

Allegation #4:

(1) That in August 2008, incident to his Change of Command, RDML Lotring improperly had a Culinary Specialist Chief travel on official, funded Government orders from Nebraska to support a pre-Change-of-Command official evening reception and a post-Change-of-Command unofficial party, in violation of the Standards of Ethical Conduct (5 CFR Part 2635, Subsections 101(b)(1) and (9), 702(a), 704, and 705(b)) and DODI 1315.09; and

(2) That RDML Lotring also had his Enlisted Aide work at the post-Change-of-Command unofficial party involuntarily and without compensation, in violation of the Standards of Ethical

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Conduct (5 CFR Part 2635, Subsections 302(b) and 702(a)) and DODI 1315.09.

Findings of Fact

92. On 6 August 2008, at RDML Lotring's request, U.S. Strategic Command (STRATCOM) issued TDY orders to (b)(6) (b)(7)(c) (b)(6) (b)(7)(c) USN, for the purpose of "site visit and assist with change of command at Great Lakes NSTC." The Comptroller at NSTC Great Lakes provided STRATCOM with the line of accounting to fund the orders. (b)(6) (b)(7)(c) traveled to Great Lakes on Wednesday afternoon, 13 August 2008, and returned to Nebraska on Saturday morning, 16 August 2008. The cost of travel and per diem to the Government was \$904.50. (b)(6) (b)(7)(c) did not work the actual Change of Command or the reception immediately following it. She did work a reception in the Admiral's quarters the night before the Change of Command and a party in the Quarters the evening following the Change of Command. RDML Lotring's (b)(6) (b)(7)(c), (b)(6) (b)(7)(c), also worked at these two events. Numerous Culinary Specialists (CSs) are stationed at Great Lakes and would have been available to assist in any official Change-of-Command events.

93. RDML Lotring's Change of Command was on Friday, 15 August 2008. The senior guest speaker was (b)(6) (b)(7)(c) who also served as the Reviewing Officer for the RTC graduation that same day. It was common practice for RDML Lotring to host the Reviewing Officer at a dinner in his quarters the Thursday night before graduation. RDML Lotring had this practice reviewed by his Staff Judge Advocate, who opined that such dinners were official events.¹¹

94. On Friday night RDML Lotring held another party. At this time he was no longer Commander NSTC, but still lived in Quarters AA. The purpose of this party was to entertain family members, neighbors (senior officers who lived in Government quarters on Brick Row), and Navy League acquaintances. In testimony from the witnesses, this party was called the "afterglow" party.

RDML Lotring's Testimony

95. RDML Lotring stated:

a. He first met (b)(6) (b)(7)(c) (then a (b)(6) (b)(7)(c)) after his (b)(6) (b)(7)(c) had to be reassigned because of stress-related medical problems. After interviewing several CSs at RTC

¹¹ Although we would opine that each reception has to be evaluated on its facts to determine if it is official or not, we will not look behind RDML Lotring's reliance on his SJA's broad guidance that dinners for Reviewing Officers are official.

to identify a temporary replacement for (b)(6) (b)(7)(c), he selected (b)(6) (b)(7)(c) to serve until a new (b)(6) (b)(7)(c) ((b)(6) (b)(7)(c)) could be permanently assigned. The Navy Military Personnel Command approved (b)(6) (b)(7)(c) assignment as RDML Lotring's (b)(6) (b)(7)(c) for this temporary period. Following approximately 5 months with RDML Lotring, (b)(6) (b)(7)(c) transferred to STRATCOM at Offutt Air Force Base, Omaha, NE, to work as an (b)(6) (b)(7)(c) to (b)(6) (b)(7)(c), the Deputy Commander.

b. RDML Lotring believed he needed extra support in preparing for his Change of Command, which was to be attended by ADM Hogg, who also would be the Reviewing Officer for the RTC graduation that day. RDML Lotring believed it was appropriate to "pool" Enlisted Aide resources as necessary, and since (b)(6) (b)(7)(c) (one of the two (b)(6) (b)(7)(c) in Region Midwest) had previous experience working in his quarters, he asked (b)(6) (b)(7)(c) if he could have her travel to Great Lakes. (b)(6) (b)(7)(c) gave his permission and NSTC arranged for her TDY orders to Great Lakes; she stayed in the Navy Lodge, and she worked in the Lotrings' quarters for three days.

c. Although there were CSSs at RTC who could have been used, there were no Enlisted Aides at RTC, and he wanted an extra Enlisted Aide to work in his Quarters for those three days. (b)(6) (b)(7)(c) helped (b)(6) (b)(7)(c) clean the quarters, prepare food, and do "Change of Command reception stuff." Her primary responsibilities were to support the dinner on Thursday evening before the Change of Command, which, as previously noted, was also a reception for (b)(6) (b)(7)(c) (b)(6) (b)(7)(c) and other Flag Officers, as well as the reception in his quarters on Friday evening following the Change of Command. While the Admiral wanted her because she was an exceptional baker and "an exquisite food preparer;" the "real issue" to him, however, was that he could "trust her in his home to do a great job and work with [his] (b)(6) (b)(7)(c) "

d. RDML Lotring stated that the Thursday evening event was a "little reception for (b)(6) (b)(7)(c) ." He also invited several Flag Officers in town for the Change of Command, as well as his own visiting family members, so the event was larger than the usual pre-graduation reception.

e. RDML Lotring stated that the "afterglow" party was for a small group he invited that included his direct family who had come to the Change of Command, O-6s who lived in Government Quarters nearby (Brick Row), and some Navy League people.

(b)(6) (b)(7)(c), DEPCOM STRATCOM'S (b)(6) (b)(7)(c)

96. (b)(6) (b)(7)(c) was previously assigned to RTC Great Lakes as a recruit (b)(6) (b)(7)(c) From about November 2007 to March 2008, she served as a temporary replacement for (b)(6) (b)(7)(c) She turned over with (b)(6) (b)(7)(c) in February 2008.

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97. (b)(6) (b)(7)(c) recounted:

a. She "kind of volunteered" to assist the Lotrings with the Change of Command by asking (b)(6) (b)(7)(c), "Wouldn't that be nice if I could come back and do your Change of Command cake for you?"

b. (b)(6) (b)(7)(c) received an e-mail from RDML Lotring, requesting (b)(6) (b)(7)(c) assistance for the Change of Command, and inquiring as to whether (b)(6) (b)(7)(c) would be willing to let her go for a few days. (b)(6) (b)(7)(c) told (b)(6) (b)(7)(c) that he was "okay with it," as he was going to be out of town and RDML Lotring would take care of her travel expenses.

c. (b)(6) (b)(7)(c) stated she had nothing to do with the official Change of Command reception following the ceremony at the RTC drill hall, as that was the responsibility of CSSs assigned to RTC. She and (b)(6) (b)(7)(c), the assigned (b)(6) (b)(7)(c), took care of (1) the "pre-reception" on Thursday evening in the Admiral's quarters (for about 30 people); (2) a "pre-reception" on Friday in the RTC drill hall (for about 40 people, "mostly close family and friends"); and (3) the reception on Friday evening in the Admiral's quarters (for about 50 people). At the pre-reception on Friday, she and (b)(6) (b)(7)(c) "just kind of had a few things set out for them to kind of relax, get some water, have some juice, a bit prior to the ceremony."

d. The cake she baked was not the cake for the official Change of Command reception at the RTC drill hall, but rather for the unofficial party ("afterglow") at the Lotrings' quarters on Friday evening.

e. Immediately following the Change of Command ceremony at RTC on Friday, she and (b)(6) (b)(7)(c) returned to the Admiral's quarters to prepare for the "afterglow" party. (b)(6) (b)(7)(c) (b)(6) (b)(7)(c) who was assigned to RTC, assisted in the quarters that evening.

f. On Thursday, (b)(6) (b)(7)(c) also prepared and served a luncheon in the CNSTC office spaces for the Admiral and a guest. (b)(6) (b)(7)(c) mainly supported the Thursday and Friday evening receptions in the Admiral's quarters (prepared and served food and cleaned up). She was not compensated for any of her time spent in support of those social functions, and she was unaware of whether (b)(6) (b)(7)(c) or (b)(6) (b)(7)(c) received compensation.

g. There are many CSSs assigned to RTC, four or five of whom she knows personally. While some of them also could have been asked to assist with the Admiral's Change-of-Command social functions, she thinks "part of the reason for having her come back [from STRATCOM]" was to congratulate her for "making (b)(6) (b)(7)(c) "

98. (b)(6) (b)(7)(c) stated that RDML Lotring sent him an e-mail requesting (b)(6) (b)(7)(c) services in support of his Change of Command. He replied that, since he wouldn't need (b)(6) (b)(7)(c) while he was TDY from 13-15 August 2008, he would let her go to Great Lakes, as long as she were ordered there "under RDML Lotring's authority" and it was "official Navy business." RDML Lotring agreed to those conditions and stated that NSTC would fund her orders. While (b)(6) (b)(7)(c) concedes that CS support of a Change of Command doesn't necessarily require the services of an additional Enlisted Aide, he was unaware of any other Enlisted Aide who was geographically closer to Great Lakes than (b)(6) (b)(7)(c) at STRATCOM.

99. (b)(6) (b)(7)(c) was aware that RDML Lotring had an Enlisted Aide assigned to his quarters. RDML Lotring didn't discuss with him either the specifics of what he would have (b)(6) (b)(7)(c) do in connection with supporting the Change of Command, or whether there were any non-Enlisted Aide CSs in the Great Lakes area who could provide the desired assistance.

(b)(6) (b)(7)(c)

100. (b)(6) (b)(7)(c) stated that a couple of weeks before the Change of Command, he was present in the Admiral's quarters when (b)(6) (b)(7)(c) called (b)(6) (b)(7)(c) to congratulate her on her promotion and told her that the Lotrings wished she could be in Great Lakes to make the cake. (b)(6) (b)(7)(c) replied, to the effect, "If you can get me out there, I'll come do the cake for you; that's no problem." (b)(6) (b)(7)(c) had intended to purchase a cake at a local European bakery.

101. (b)(6) (b)(7)(c) stated that the Thursday night event was for the Reviewing Officer for the graduation the next day. He described it as a "little party" for (b)(6) (b)(7)(c), although with RDML Lotring's family and friends, who were there for the Change of Command, it exceeded the dinner table's seating capacity of ten. Three other Flag Officers, and a spouse of one, were also invited.

(b)(6) (b)(7)(c)

102. (b)(6) (b)(7)(c) stated that (b)(6) (b)(7)(c) only helped with the Thursday and Friday evening functions in the Admiral's quarters. It was unnecessary and a waste of money to give her TDY orders from Nebraska to Great Lakes for that purpose, but the Admiral thought that she was a fantastic cook and baker, so he requested her.

103. (b)(6) (b)(7)(c) told the (b)(6) (b)(7)(c), the (b)(6) (b)(7)(c), and the (b)(6) (b)(7)(c) that he didn't think the command "should go down that road," as he didn't think it was right.

I made that comment way before, when he [the Admiral] first made the comment that he wanted her to come out. I said, "There is no way that -- why she needs to come out here." If we need any other local support, we pull it from somewhere locally, where it won't cost us a dime.

They all agreed... [But] a lot of us were afraid to go into him, because of the way he was.

(b)(6) (b)(7)(c) , (b)(6) (b)(7)(c)

104. (b)(6) (b)(7)(c) , the (b)(6) (b)(7)(c) , recounted:

a. In late July or early August 2008, there was a meeting in the front office with RDML Lotring to discuss the Change of Command, without any lawyers present. The Admiral mentioned that he would like (b)(6) (b)(7)(c) to assist (b)(6) (b)(7)(c) in support of the Change of Command, commencing with the Thursday evening reception in his quarters, which would be attended by a larger number of people than usual. The Admiral explained that he wanted (b)(6) (b)(7)(c) , because she was already familiar with his quarters and the area.

b. (b)(6) (b)(7)(c) then called (b)(6) (b)(7)(c) and told her that RDML Lotring would like her to travel to Great Lakes to help (b)(6) (b)(7)(c) with the Change of Command. Additionally, (b)(6) (b)(7)(c) passed the accounting data from the (b)(6) (b)(7)(c) to the appropriate travel support personnel at STRATCOM.

(b)(6) (b)(7)(c)

105. (b)(6) (b)(7)(c) , stated that he was unaware that the Admiral had requested to have (b)(6) (b)(7)(c) support the Change of Command, until the Admiral asked him whether the process was on track. At that point (b)(6) (b)(7)(c) asked (b)(6) (b)(7)(c) to check on it.

I didn't know if she was coming on orders or not, but what I found a little odd was why, you know, why she was coming anyway. You know, is she coming to help around the house while we have a ton of CSs over at RTC that we can ask to help. Is she just that good of a (b)(6) , well, I don't know. I've never eaten [her cooking], but I mean, I doubt it. So I found that part weird.

And I'm sure plenty of the CSs over at RTC, you know, do work for a catering or something like that and would be more than willing to take some time and make a dollar or two doing some cooking. I'm sure they would because there's so many of them...

I think in passing I asked, I don't know if it was (b)(6) (b)(7)(c) -- I didn't even know who the (b)(6) (b)(7)(c) was, and so why are we bringing this (b)(6) (b)(7)(c) in? Oh, well, she used to work for the Lotrings and, you know, I think they just want her to be at the Change of

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Command.... If she was coming in on orders, it sounds like I probably should have asked a few more questions, but I didn't.

(b)(6) (b)(7)(c) and (b)(6) (b)(7)(c)

106. With respect to importing a CS from another part of the country to help with RDML Lotring's Change of Command, (b)(6) (b)(7)(c), RDML Lotring's (b)(6) (b)(7)(c), opined:

It wasn't necessary. There were very good CSs over at RTC. There are people here that could have done it. And you pay. You know, I just had a retirement ceremony I paid a lot of money for. Shoot, the caterer was over \$1,000 anyway. So it only took two people, too. But it's out of my pocket.... You know, it's like, "Admiral, you didn't have to do that; there's really good people here."

107. (b)(6) (b)(7)(c), (b)(6) (b)(7)(c), RDML Lotring's (b)(6) (b)(7)(c), stated:

a. At a Change of Command planning meeting, the Admiral asked whether the command could bring (b)(6) (b)(7)(c) back to support the Change of Command. (b)(6) (b)(7)(c) replied that she didn't know why he couldn't. Although the Admiral could have gotten help locally, he knew that (b)(6) (b)(7)(c) knew exactly what to do and didn't need to be trained. The Lotrings thought very highly of (b)(6) (b)(7)(c) and "just wanted to make sure all bases were covered."

b. (b)(6) (b)(7)(c) attended the Thursday evening social event in the Admiral's quarters, but not the "afterglow" party on Friday evening. She stated:

I considered that to be a private function. The pre-reception the night before was fully supported by the CSs. The Reviewing Officer for Friday was there; the official guests for the change of command were there. And therefore I was there, at an official function. What went on the next day is - - I had nothing to do with it.... By that time, I reported to a different master.

Applicable Standards

108. The Standards of Ethical Conduct (5 CFR Part 2635) provide the following:

a. Subsection 101(b)(1), concerning the basic obligation of public service, states:

Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

b. Subsection 101(b)(9), concerning the duty to conserve Federal property, states:

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Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

c. Subsection 702(a), concerning Use of Public Office for Private Gain, states:

Inducement or coercion of benefits. An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

d. Subsection 704, concerning use of Government property, states:

An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.

e. Subsection 705(b), concerning Use of a Subordinate's Time, states:

An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

f. Subsection 302(b), concerning gifts from subordinates, states:

[A]n employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself...

109. DODI 1315.09, paragraph 5.1, concerning utilization of enlisted personnel on personal staffs of Flag Officers, states:

No officer may use an enlisted member as a servant for duties that contribute only to the officer's personal benefit and have no reasonable connection with the officer's official responsibilities.

Analysis

110. RDML Lotring brought a Culinary Specialist several hundred miles at Government expense to primarily work 2 social events. Although one of these events, the Reviewing Officer Thursday reception, was official, it was an event that occurred throughout the year. (b)(6) (b)(7)(c) had frequently worked such receptions and similar events alone or with local help. It is noted that this event was slightly larger than usual, because RDML Lotring had invited family and friends in town for the

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Change of Command. From RDML Lotring's and (b)(6) (b)(7)(c) testimony, as well as the reported remarks of (b)(6) (b)(7)(c), it appears that the primary motive in ordering (b)(6) (b)(7)(c) to Great Lakes was to allow her to witness the Change of Command and to prepare a cake for the unofficial party held Friday night. (b)(6) (b)(7)(c) duties for the official Thursday night function were not so unique that a local CS could not have competently performed them without the unnecessary expense associated with (b)(6) (b)(7)(c) TDY orders.

111. Ordering (b)(6) (b)(7)(c) to Great Lakes under these circumstances is considered a waste of Government resources and, thus, a violation of the Admiral's responsibility to conserve Government property, which by implication includes Government funds.

112. RDML Lotring used (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) to prepare for and work at the unofficial "afterglow" party on Friday night. This party was primarily for his family, friends, and neighbors and was not an event that was reasonably connected to his military duties and responsibilities. He did not compensate them at the market rate for those services.¹² To the extent that they used Government time to prepare for the "afterglow" party, RDML Lotring was using subordinates' official time to perform activities for his personal benefit in violation of 5 CFR 2635.705(b). RDML Lotring's uncompensated use of (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) to work the actual "afterglow" party constituted use of his public office for private gain by coercing subordinates to perform activities for his personal benefit in violation of 5 CFR 2635.702(a). This same act constituted using enlisted personnel as servants in violation of DODI 1315.09, as well as accepting a gift (free services) from a subordinate in violation of 5 CFR 2635.302(b).

Conclusion

113. The allegation is substantiated.

Allegation #5: That RDML Lotring had his driver transport him and others in his Government vehicle to and from his on base quarters to and from his place of employment in violation of 31 USC § 1344, VCNO Standards of Conduct Guidance memo of 17 November 2005 (memo in effect at the time), VCNO memo of 12 August 2008

¹² Although RDML Lotring stated that his (b)(6) purchased a \$100 gift certificate for (b)(6) this appears to be a going-away thank you gift and not compensation for the "afterglow" party. In any event, a gift certificate is not compensation at the market rate unless (b)(6) had agreed to it.

(updated version), OPNAVINST 11240.8G, and DoD Directive 4500.36-R.

Findings of Fact

Background

114. Several allegations were raised concerning RDML Lotring's use of his car and driver. For purposes of this investigation we focused on the following:

a. RDML Lotring's home-to-work transportation from temporary and permanent Quarters;

b. (b)(6) (b)(7)(c) use of a Government car and driver to take her to Chicago O'Hare Airport while on Invitational Travel Orders to attend a week of CAPSTONE;

c. RDML Lotring's directing or allowing (b)(6) (b)(7)(c) (and on occasion (b)(6) (b)(7)(c)) to be transported without him in the Government car; and

d. RDML Lotring's use of the Government car and driver to pick up guests from the nearby BOQ and transport them to and from his Quarters for evening social events.

115. The Admiral's car is assigned to the position of CNSTC, and the assigned driver uses the car to transport the Admiral for official business. No one other than the assigned driver drives the car, and it is used exclusively for the Admiral. NSTC has another Government vehicle, which is assigned to the position of COS, but is also used by other NSTC staff members for official business.

(b)(6) (b)(7)(c) , November 2006 to August 2007

116. (b)(6) (b)(7)(c) , (b)(6) (b)(7)(c) , was RDML Lotring's (b)(6) (b)(7)(c) until her departure from the Navy in August 2007. (b)(6) (b)(7)(c) stated that on a few occasions, she picked RDML Lotring up from his quarters to bring him to RTC, either due to inclement weather or because she "was simply told to do so." She didn't recall ever dropping him off at the quarters, as he "normally" went "straight back to his office" after RTC graduations. On a couple of occasions, however, she used the Government vehicle to transport (b)(6) (b)(7)(c) from RTC to her quarters.

(b)(6) (b)(7)(c) July 2007 to May 2008

117. (b)(6) (b)(7)(c) since July 2007, stated that in mid-May 2008, (b)(6) (b)(7)(c) told him to drive RDML Lotring's (b)(6) (b)(7)(c) to the airport so she could join (b)(6) (b)(7)(c) and the (b)(6) (b)(7)(c) in Washington, DC, for the final week of CAPSTONE. When (b)(6) (b)(7)(c) was returning alone from CAPSTONE, (b)(6) (b)(7)(c) asked (b)(6) (b)(7)(c) to pick (b)(6) (b)(7)(c) up at the airport, but (b)(6) (b)(7)(c)

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told him and (b)(6) (b)(7)(c) that he shouldn't be driving (b)(6) (b)(7)(c) without the Admiral being in the car, and so he didn't pick (b)(6) (b)(7)(c) up.

118. (b)(6) (b)(7)(c) stated that he transported (b)(6) (b)(7)(c) alone on a couple of occasions and that on numerous occasions he drove (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) without the Admiral in the car. For example, after some RTC graduations, he drove them to their personal vehicle, as the Admiral frequently went separately to RTC.

I would just be told a lot of times that they might park their vehicle on the other side of the base, and I would be told, "Hey, go drive them over to their vehicle, or go drop them off at the house before you come back and pick up whoever the reviewing officer for the week was.... It was very obvious that there would be a few times that, even though he would tell me he didn't like it, (b)(6) (b)(7)(c), or maybe (b)(6) (b)(7)(c), I might have to do something because they were directed by the Admiral to have me do it. So even though I think he knew that it shouldn't get it done, I had to do it anyways kind of deal. So sometimes he might be like, "Hey, you need to pick the (b)(6) (b)(7)(c) up and take (b)(6) (b)(7)(c) somewhere," and I would be like, "Well, isn't that illegal?" And he'd be like, "Yeah, but, you know, just go do it."

119. (b)(6) (b)(7)(c) stated that on a couple of occasions the Admiral jumped out of the car and asked him to take (b)(6) (b)(7)(c) the rest of the way without him. (b)(6) (b)(7)(c) stated:

[The Admiral would say, words to the effect,] "Okay, so you're going to go drop my (b)(6) (b)(7)(c) off and then be right back" kind of deal...just kind of like an understanding where, okay, you're going to go do that and then you'll be back here to pick us up kind of deal. For the change of command [15 August 2008], actually I was instructed to drive just (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) back to his house.... I was going to drive [the Admiral] back, [but] he jumped out of the car and jumped into his vehicle that his friend was driving and then followed us back there.

120. (b)(6) (b)(7)(c) stated that on numerous occasions he was required to pick the Admiral up at his quarters and to drive him from the office to his quarters, until the summer of 2008, when it was known that a Naval Inspector General team would be visiting the area. (b)(6) (b)(7)(c) stated:

... I'd ask (b)(6) (b)(7)(c), "Am I supposed to pick [the Admiral] up from the house, or pick him up from the building [Headquarters]?" And he'd be like, "Yeah, just pick him up at the house." And then later I was told that I wasn't supposed to be picking him up from his house.

...I think [the Admiral] was doing different things, too, when he found out about this whole IG thing, that we were having an inspection team come out to the base.... There w[ere] a couple times where he would be getting dropped back off and I would go to drop him off at his house, but he quickly would be like, "No, no, no,

just let me out here," and he'd just jump out of the car in the middle of the street, instead of me pulling into his house. And as soon as he did that, I already knew. I was like, "I know why you're jumping out of the car." ...[Be]cause it was routine, I just always used to drop -- you know, pulling into his driveway and dropping him off in front of his door, but that time he specifically made me stop,...jumped out of the car in the middle of the street, and walked to his house from there.

121. (b)(6) (b)(7)(c) was occasionally required to drive various personnel without the Admiral or any member of his family in the car. Until the summer of 2008, on Thursday evenings he routinely picked up guests at the BOQ and drove them to the Admiral's quarters for dinner. (b)(6) (b)(7)(c) stated:

It was pretty much routine, taking them, and then after awhile they finally started saying, "You know, they should be taking their rental cars over there." ...I did a lot of personal griping about why I have to keep driving these people every Thursday, and, you know, half the time they're not even military. And...eventually one day...(b)(6) (b)(7)(c) t[old] me, "Hey, you know, unless we provide transportation from the airport, they're supposed to be getting themselves over to the Admiral's house for dinner." Most... times they took the rental vehicles in, but then I would still have to drive them 100 feet or whatever.... Some of them volunteered [to walk], but it was an understanding that it was not a good thing if I did not give them a ride over. I would still have to volunteer anyways, you know, "Get out of my way; I'll give you a ride." But I would have some people, straight-up, tell me no, refuse, and then walk over there. Right out in front of his house there [are] plenty of parking spots.... They have his dinners at 1830, and then they'd usually be there, on average, for about two hours, so I'd always come back about a quarter after eight o'clock at night and just sit there 'til whenever they were done. So sometimes I'd sit out there for like 45 minutes until they were done to drive them 50 feet or whatever.

(b)(6) (b)(7)(c)

122. (b)(6) (b)(7)(c), (b)(6) (b)(7)(c) RTC, Great Lakes, stated that on Fridays at about 0430-0500, she and her driver typically picked up the Admiral at Building 1, and his guest(s) at the BOQ, to take them on a tour of RTC. On no occasion did they pick up the Admiral in front of his quarters, and on every occasion the Admiral was in the car, even when (b)(6) (b)(7)(c) and sometimes (b)(6) (b)(7)(c), accompanied him to the pre-graduation breakfast for guests at the USS ARIZONA building on RTC.

(b)(6) (b)(7)(c)

123. (b)(6) (b)(7)(c) stated that "many times" he observed (b)(6) (b)(7)(c) pick up the Admiral and (b)(6) (b)(7)(c) at the quarters.

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(b)(6) with others in the car] would drive up to the driveway, pick up the (b)(6) and him (the Admiral).... ...[T]he Admiral wanted them picked up there and he used to do that many times. And I even told the Admiral, I said, "Sir, they shouldn't, and he'd give me that look like, "(b)(6)" and I was like, "Fine."

(b)(6) (b)(7)(c), NAVSTA Great Lakes

124. (b)(6) (b)(7)(c), NAVSTA Great Lakes and (b)(6) (b)(7)(c), Naval Region Midwest, worked in Building 1 where RDML Lotring also worked. As one of RDML Lotring's (b)(6) (b)(7)(c) observed him being picked up at his quarters to conduct business somewhere on base other than in Building 1. (b)(6) (b)(7)(c) stated:

I was very cognizant, because I also used a driver at times and I know that I followed all of the rules, and I do know that on a couple of occasions I noticed that ADM Lotring did do some things that I did not do as far as pickups and drop offs. But the way I understood is that the difference between me being an O-6 CO and him being an O-7 Flag Officer that certain things might have been different. I don't know that for a fact. But I was cautioned strongly that there were no pickups or drop offs at my residence despite the fact that it was only a half block from the building. So I never did that. I met my driver at the building. But I do know that ADM Lotring, on a couple of occasions, was picked up at his residence... [to go]... to other commands that were under his umbrella on the base, for instance, Recruit Training Command ... I saw pickups and/or drop offs at the residence, [but] I couldn't give you a date or tell you how many times or anything. But that was something that I was cautioned against by my predecessor, and when I talked to my driver, that was borne-out by his guidelines, so I did not do that. But ... I can't say that I know the rules exactly for a flag officer.

(b)(6) (b)(7)(c)

125. (b)(6) (b)(7)(c) didn't acknowledge that (b)(6) (b)(7)(c) was frequently required to pick up and drop off the Admiral at his quarters; rather, he cited only two instances:

There were two times that the Special Guest [can't remember the names] also happened to be a personal friend of the Admiral, and in those cases he may have invited them to stay at their house [Admiral's quarters]. So we would pick up the Special Guest at the Admiral's house, rather than having them walk over to the BOQ, because [the practice was] to pick [guests] up wherever they were staying, which could have been at the Navy Lodge.

I mean it was very rare but given that the SOP was to pick them up at wherever they were staying, I didn't think it was much of a stretch to pick them up at the Admiral's house instead of having them walk some place else which didn't make any sense to me.

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Well normally what would happen, say all the guests were staying at the BOQ. The Admiral and I would meet at 5:00 a.m. or so in the office, and then RTC vans would come meet us at the office at 5:15 and we'd hop in the vans, drive over to BOQ, and pick them up. The one difference in this, is that I would get to the office and they would pick me up and then we'd drive over and pick up the Admiral and the Special Guest at his home and then drive over to the BOQ.

(b)(6) (b)(7)(c)

126. (b)(6) (b)(7)(c) stated that he complained to Counsel and to the SJA about misuse of the Admiral's vehicle.

a. On numerous occasions he questioned using the Admiral's driver to give (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) a ride to the RTC graduation ceremonies. (b)(6) (b)(7)(c), advised (b)(6) (b)(7)(c) that while (b)(6) (b)(7)(c) could accompany the Admiral in the Government car, it wasn't permissible for the (b)(6) (b)(7)(c) to go with them.

b. He also questioned using the Admiral's driver to pick up the Admiral at his quarters and take him to work. In the fall of 2007, (b)(6) (b)(7)(c) gave the Admiral and (b)(6) (b)(7)(c) written guidance on the proper use of the duty driver, underscoring that picking the Admiral up at his quarters was prohibited.¹³

127. (b)(6) (b)(7)(c) stated that there were occasions when the driver was asked to transport (b)(6) (b)(7)(c) alone. For example, upon completion of RTC graduation ceremonies, she occasionally had him drive her to the other side of the base, where her car was parked.

(b)
(6)

128. (b)(6) (b)(7)(c) strongly advised RDML Lotring that there were no allowable exceptions to the rule prohibiting him from using his driver to take him from home to work, even though his quarters was just across the street from his office. She stated that he did not take her advice very seriously.¹⁴

¹³ On 4 October 2007, the RLSC (b)(6) (b)(7)(c) issued CNSTC a written opinion: "While a command vehicle cannot be used to transport a local commander from a permanent residence to an official function, it can be used to pick up a guest speaker who is in a TAD status from on-base temporary lodging and transport that individual to and from an official function. Generally, a TAD member in temporary lodging off base will have use of a commercial rental car, and command vehicles should not be used for transport to and from the base. Due to appearance concerns, use of a command vehicle to visit eating establishments during TAD assignments also is not recommended."

¹⁴ Previously, on 28 November 2006, (b)(6) (b)(7)(c) briefed RDML Lotring on "Ethics Issues for the Flag Staff." One of her slides showed: "The use of

I made it clear, both to the Admiral and to the front office staff, that the Admiral had to walk across the street to get into his car, and that the driver could not let him off in front of the house. But I will tell you that I saw the driver drop the Admiral off in front of his house on occasions. I mentioned it again. And so I don't think that was taken as seriously as he could have. But again, you know, in the spectrum of things, you know, it was at the low-risk spectrum of things.

...I think that the house wasn't ready for Admiral Lotring when he first arrived. He had to live at a different quarters. And so, I said, "You definitely cannot" - the car can't take him all the way down to...quarters "A" or whatever it was, and drop him off; the Admiral has to walk that. I said, "Again, the rules are that they cannot drop off or pick up, unless the Admiral is going on a trip... that's the exception to it." I said, "The safest thing is just to walk across the street; leave the car in front of the building; walk across the street; and get in the car." I'm not sure that the Admiral took that as studiously as he probably should have....

[While] he was [in temporary Quarters]...at the end of the block, five or six houses down...so the driver would have had to go down, drop him off, and then come back. And so that was clearly "home-to-work," and that was not appropriate.... I [had] explained to the Admiral and to the flag staff, that one of the prior Admirals in Great Lakes had wanted to be picked up at the house, and didn't think it was a big deal, and that I had thoroughly researched it, and actually talked with the JAGs at NETC, as well as [those] in [Navy JAG Administrative Law], and there is just no exception to the rule. I mean, I don't care if it's 100 feet or 1,000 feet.

129. (b)(6) (b)(7)(c) stated that on one occasion she may have successfully persuaded the Admiral not to use the Government vehicle to give friends a tour of RTC. They were business leaders who were invited as guests at one of the graduations. He wanted to use the Government vehicle to take them on a tour and "do a variety of things." (b)(6) (b)(7)(c) advised the Admiral that "personal friends don't get tours," and the Admiral "kind of pushed back" with the argument that they were business leaders. (b)(6) (b)(7)(c) recalled her reply:

I said, "I know, Sir, in their communities,"...but they're really your personal friends; that's the reason they're here, visiting, and that's what everybody is going to see; and that's what is important for you to understand; and, therefore, you should treat them as

government property - GOV (e.g., sedan): Not for personal business; No home-to-work transportation; Pick up/drop of official visitors at airport authorized where scheduled bus service/public transit won't meet mission requirements; Home-to-airport transit requires scrutiny - get Ethics Counselor opinion."

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personal visitors, and we shouldn't use Government vehicles; you shouldn't use Government assets in order to support a personal visit and a personal tour." And we even discussed whether it was appropriate for the tour guide, you know, a petty officer over at the base, to actually give the tour, because that would be using official time for personal reasons. And so, you know, we talked about all those things. And I think that those were some of the little things that irritated the Admiral a little bit. ...I think that he saw that as being a little too conservative of a view of the ethics, since these were community leaders, and that's the way he saw them. I saw them as his friends.... And so, I advised caution on that one. And it's my understanding that the Admiral complied with that.

No Specific Recollection of (b)(6) (b)(7)(c) or (b)(6)

130. (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) each testified that prior to the instant investigation, they were unaware of issues regarding use of the Admiral's vehicle.

RDML Lotring's Testimony

131. The Admiral stated:

a. His car was part of a motor pool and not issued for his exclusive use, as the (b)(6) (b)(7)(c) for example, could use it as necessary, with his permission, but only for official events and transportation to and from the airport in conjunction with official travel.

b. At the start of RDML Lotring's tour of duty in November 2006, (b)(6) (b)(7)(c) elected to remain in Quarters AA for a couple of months, until late December when (b)(6) (b)(7)(c) graduated from high school. During those months, RDML Lotring resided in temporary lodging in quarters down the road and around the corner from Quarters AA. In mid-January 2007, after renovation of Quarters AA, the Lotrings moved into them.

c. He had no recollection of ever riding in his Government car to his work, or work to home, or of (b)(6) (b)(7)(c) ever addressing this matter with him. Quarters AA was about 200 feet across the street from his office. On Fridays when he began his day by departing early for the RTC graduation activities, he always walked across the street and was picked up at Building 1 where his office was located. In response to the anecdote that during the recent IG area visit in Great Lakes, he had his driver stop the car in the middle of the street and got out of the car, to ensure the driver did not drop him in front of his house, as usual, the Admiral stated the driver knew the rules and "that would never have happened, and did not happen." He could not recollect any occasion when personal guests of his stayed in his quarters the night before a Friday RTC graduation. The only time that he has ever been picked up at the quarters was when he was going on official travel. He also has no

recollection of his driver transporting (b)(6) (b)(7)(c) without him in the Government car.¹⁵

d. In May 2008, (b)(6) (b)(7)(c) joined him for the last week of CAPSTONE. While he didn't recall dialogue with members of his staff regarding the issue of (b)(6) (b)(7)(c) traveling in the Government sedan to and from the airport to join him on that occasion, or any legal objection raised at the time, he was aware of previous discussions regarding the general issue of his (b)(6) (b)(7)(c) riding in the car under ITO orders, and understood that it was permissible. He also didn't recall (b)(6) (b)(7)(c) ever being driven in the Government car to (b)(6) (b)(7)(c) own vehicle after RTC graduation ceremonies.

Applicable Standards

132. Authorized uses of Government vehicles are prescribed in DOD Regulation 4500.36-R, Management, Acquisition, and Use of Motor Vehicles (implemented in the Department of the Navy by incorporation in OPNAVINST 11240.8G). This single, authoritative source contains all relevant guidance, as outlined below:

a. The use of all DOD motor vehicles shall be restricted to official purposes only. Except for authorized DOD bus routes, transportation to, from, or between locations shall not be authorized by the DOD for the purpose of conducting personal business or engaging in other activities of a personal nature by military or civilian personnel, members of their families, or others.

b. With certain statutory exceptions, the use of DOD motor vehicles shall not be authorized to provide domicile-to-duty transportation.

c. 31 USC § 1344, as amended, authorizes domicile-to-duty transportation on an exception basis for individuals filling certain high-level positions [e.g., SECDEF, SECNAV, CNO, etc.]. As well, it provides that the Secretary of Defense and the Secretaries of the Military Departments may authorize, in writing, on a non-delegable basis, domicile-to-duty transportation for other personnel under certain conditions. When extended, this authorization covers only official uses of motor vehicles as prescribed in the DOD regulation. It does not provide for use of DOD motor vehicles for unofficial purposes.

¹⁵ NSTCNOTE 5050 of 25 June 2008, which designated (b)(6) (b)(7)(c) as one of the VIP guests for RTC graduation on 27 June 2008, shows the Lotrings and (b)(6) (b)(7)(c) departing Quarters AA via RTC mini-van en route Bldg 62, and returning to the Quarters AA from Drill Hall 7220.

d. With respect to transporting individuals, the regulation provides the following:

C2.5.7. Individuals may be transported with a Government employee in a DOD motor vehicle only when:

C2.5.7.1. Accompanying the sponsoring military member or civilian employee in the Government vehicle, under authorized use to accomplish official business, and there is available space. Such transportation may be provided only at no additional Government cost. The size of the vehicle authorized must be no larger than that required for the performance of the official business.

133. The Joint Federal Travel Regulations (JFTR), paragraph U2010, describes the member's responsibilities, among which is the "Obligation to Exercise Prudence:"

1. The member must exercise the same care and regard for expenses as a prudent person traveling at personal expense.

3. Excess costs, circuitous routes, delays or luxury accommodations that are unnecessary or unjustified are the member's financial responsibility.

134. The Standards of Ethical Conduct (5 CFR Part 2635), Section 2635.704, Use of Government Property, provides that "An employee has a duty to protect and conserve Government property...." Implicit in this rule is the duty not to waste Government funds.

135. Chapter 2 of OPNAVINST 4650.15, the Navy Passenger Transportation Manual, establishes Navy passenger transportation policies. Paragraph 1a of that chapter states:

The transportation used will be that which satisfies the mission requirement most cost effectively, taking into consideration sound traffic judgment, per diem, travel time, and programs designed to obtain best value rates and fares for Government travelers. Travel orders will not direct a means of transportation that is either more costly or in contradiction to DOD/Navy travel policies.

136. In Ethics-Gram 01-04 of 21 March 2001, the Deputy Assistant Judge Advocate General (Administrative Law) addressed the use of Government vehicles from home to official functions and TDY/Home-to-Airport, as follows:

Home to official functions. Government employees who are required to attend official functions after normal working hours often ask if a GOV [Government vehicle] may be used for transportation between their residence and the official function. Unless the employee is authorized home-to-work transportation under 31 USC § 1344, transportation cannot be provided between the member's residence and the function as this would constitute

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unlawful home-to-work transportation. This restriction applies even if the residence is at a point between the employee's normal place of duty and the location of the official function. Employees requesting Government transportation for an official function may be provided such transportation only from and to official duty locations.

TDY/Home-to-Airport. As discussed in the regulatory implementation of 31 USC § 1344 at 41 CFR part 102-5, the scope of the general prohibition barring home-to-work transportation does not apply to the use of a Government passenger carrier in conjunction with TDY or permanent change of station (PCS) travel assignments. Further, the Comptroller General of the United States determined in 1991 that an employee in a TDY travel status can receive home-to-airport transportation in a GOV. In reversing a 1987 opinion to the contrary, the Comptroller General held that when an employee departs his or her residence for temporary duty travel away from the official duty station, the employee is in an official travel status. All official expenses from the point of departure are covered by the applicable Federal travel regulations, including the expenditure of appropriated funds incurred when using a GOV.

137. VCNO Memoranda for All Flag Officers of 17 November 2005 and 12 August 2008 stated, respectively:

17 November 2005, Paragraph 3.b(2). Generally, the use of Government vehicles to transport individuals over all or any part of the route between their residences and the place of work is prohibited unless the individual has been specifically designated for home-to-work transportation. Because of this statutorily imposed restriction, an official vehicle for transportation for official attendance at events occurring outside of normal working hours can only be provided between the place of duty and the event location unless authorized home-to-work transportation. The restriction applies even if the travel distance is shorter from the individual's home than the place of duty. Because the Government transportation must begin and end at your office location, there is no authority to be dropped off at a headquarters or office building near your residence.

12 August 2008, Paragraph 3.b.(2). Do not use Government motor vehicles for transportation between your residence and your place of duty. The consequence of this prohibition is that you may not use a Government motor vehicle to travel between your residence and an after-hours official event. Instead, your Government motor vehicle travel may occur only between your place of duty and the event location, even if the travel distance is shorter from your home than from your place of duty. Because the Government transportation must begin and end at your place of duty (i.e., your office location), you may not be dropped off at a headquarters or at an office building near your residence. Although there are limited exceptions to this general rule, these

exceptions are rare and require the strictest oversight by the highest levels of our Navy.

Analysis

138. Despite RDML Lotring's testimony to the contrary, the preponderance of the evidence leads to the only possible conclusion that he received definitive, oral and written legal guidance with respect to the rules on home-to-work use of Government vehicles. At the very minimum, RDML Lotring, as did all Flag Officers, received VCNO's guidance to all Flag Officers on the Standards of Conduct. This memo provides explicit guidance on the use of Government vehicles for home-to-work transportation, including prohibiting the very actions RDML Lotring engaged in here. There is no evidence that RDML Lotring was specifically designated for home-to-work transportation by competent authority as outlined in OPNAVINST 11240.8G. Given the compelling collective testimony of his drivers, his (b)(6) (b)(7)(c) and the (b)(6) (b)(7)(c) of the Naval Station), and especially his (b)(6) (b)(7)(c)), we find RDML Lotring's testimony that he doesn't recall ever riding in his Government car from home-to-work, or work-to-home, not credible.

139. Because of the near collocation of Quarters AA and the NSTC headquarters building, this issue is very small in nature, although clearly against regulations. The (b)(6) (b)(7)(c) made it clear to RDML Lotring that the proximity of his quarters to his place of work was immaterial to the prevailing law. The Admiral disregarded her advice.

140. The current driver, an E-5, does not question his orders, which by his sworn testimony sometimes involves picking the Admiral up at his quarters, transporting him to official functions, and returning him to his quarters. Whether RDML Lotring or his (b)(6) (b)(7)(c) directed the driver is not relevant. RDML Lotring knows the rules, and on any occasion that he accepted being picked up at his quarters and was not under official TAD travel orders, he violated those rules.

141. By a preponderance of the evidence, we conclude that RDML Lotring has, on several occasions, violated the home-to-work prohibition on the use of Government vehicles, in violation of 31 USC § 1344 and OPNAVINST 11240.8G.

142. In connection with (b)(6) (b)(7)(c) ITO travel to CAPSTONE, she was entitled to Government reimbursed travel. As stated in the JFTR, there is a duty to exercise care in using an economical means of transport. Under the circumstances, (b)(6) (b)(7)(c) use of a Government car and enlisted driver does not appear to be economical when compared to a taxi, privately owned vehicle (POV), or various forms of Airport Shuttles. Although it is not clear if RDML Lotring authorized (b)(6) (b)(7)(c) use of the car and driver, there is clear evidence that he complained when the return trip was questioned and did not agree that (b)(6) (b)(7)(c)

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could not use the car and driver to return from O'Hare to their Quarters upon the completion of the trip. Based on this, we conclude it was likely that RDML Lotring was aware of (b)(6) (b)(7)(c) uneconomic transport to the Airport at the start of her ITO orders.

143. As stated above, Government vehicles may be used for "Official Use Only." A military family member or friend may not use a Government vehicle unless under Invitational Travel Orders or under some other specific authorization. A military spouse may accompany the military member, on a space-available basis, in a Government vehicle if the member's use of the vehicle is for an official purpose. In connection with RDML Lotring's (b)(6) (b)(7)(c) being transported from events in the Government car without the Admiral being present, there is evidence from the driver and witnesses that this occurred. The driver also gave evidence that RDML Lotring personally directed this transport on occasion when he departed the car before (b)(6) (b)(7)(c) reached her destination. Although there is evidence that RDML Lotring's (b)(6) (b)(7)(c) also was improperly transported by the Government car and driver, this appears to have been on occasions already covered by the Admiral's misuse of the car and driver for (b)(6) (b)(7)(c) or occasions of which the Admiral did not have knowledge. There is no evidence that (b)(6) (b)(7)(c) use of the car and driver fell within any authorized exception to the general rule that Government cars may be used for official use only. Returning (b)(6) (b)(7)(c) to (b)(6) (b)(7)(c) personal vehicle or other destination was not an official use.

144. In connection with transporting guests from the BOQ to dinner at the Admiral's Quarters, most of the testimony was not specific. If the guests had other transportation at Government expense (e.g., rental car or reimbursed personal car) they would not be entitled to pickup and return by Government car and driver to travel down the block to dinner. In the absence of specific evidence on this point, however, it cannot be established that use of the car and driver was duplicative and therefore unauthorized. Although an argument can be made that under the circumstance the use of a car and driver was wasteful, without further knowledge of the details of each occurrence, we will assume it was not.

Conclusion

145. The allegation is substantiated in connection with RDML Lotring's improper use of his Government car and driver for home-to-work transportation, his authorization/condoning of (b)(6) (b)(7)(c) wasteful use of the vehicle to travel to the Airport, and his authorization of (b)(6) (b)(7)(c) improper use of the car and driver to transport her without the Admiral.

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Allegation #6: That RDML Lotring took leave (authorized absences from his place of duty) without charging those days of leave against his leave account, in violation of the Military Personnel Manual (MILPERSMAN), DoD Instruction 1327.6, and the Standards of Ethical Conduct.

Overview

146. Military members accrue 2.5 days of leave per month served. Under normal circumstances, they can carryover 75 days of leave each year. Each day of leave can be "sold back" upon retirement at the rate of 1 day of basic pay for each day of leave. Besides serving as an important quality of life benefit, maintaining a large leave balance may help a member weather unexpected personal or family emergencies.

147. Commanders and Commanding Officers have authority to grant leave to officers and enlisted members assigned to their commands. There is no general requirement that the Commander/Commanding Officer obtain higher authority for his own leave, but there is a requirement that leave be charged against any member who takes it. In the instant case, it has been alleged that RDML Lotring takes leave, but never has it charged against his leave account.

148. RDML Lotring's leave history shows that, aside from leave in conjunction with permanent change of duty station, he used no leave between June 2006 and September 2008.¹⁶

Findings of Fact

(b)(6) (b)(7)(c) , NSTC (b)(6) (b)(7)(c)

149. (b)(6) (b)(7)(c) stated that in addition to being the Admiral's driver, he was an (b)(6) (b)(7)(c) whose duties included processing leave. Upon receipt of an approved leave request, he assigned a leave control number and, on completion of the leave period, he provided the Personnel Support Detachment on base with the leave dates, so that leave could be properly charged. (b)(6) (b)(7)(c) further stated:

a. He asked (b)(6) (b)(7)(c) why no leave papers were submitted for the Admiral for the dates that his calendar showed he was on leave. (b)(6) (b)(7)(c) only replied that the Admiral should be submitting his leave requests.

¹⁶ Because his leave balance exceeded the maximum he was entitled to carryover, he administratively lost leave during these years as well. This fact, however, does not relieve him of an obligation to charge the leave he has taken against his account.

b. He knew definitely that the Admiral was on leave for the week of Thanksgiving 2007, from the 20th of November through the 25th.

c. He opined that "no one wanted to do anything about it," because "the whole staff was afraid of the Admiral."

(b)(6) (b)(7)(c)

150. (b)(6) (b)(7)(c) stated she was not aware of whether the Admiral ever received approval for his leave, but she was aware of when he took leave.

If he never got leave approved, I do not know about that. I do know times when he took leave, because that was my learning experience. When's he's right over there [across the street in his quarters], a man that I had to report to every day with a daily report, so I - based on his personality - assumed that he would want that [report] when he was on leave, and then I got reprimanded for [giving it to him when he was] "on leave." So I know that he took leave. Clearly, "Leave me alone; I'm on leave."

(b)(6) (b)(7)(c)

151. (b)(6) (b)(7)(c) stated he was unaware of how the Admiral's leave was processed, but generally knew when the Admiral "took some leave, or at least when he was out of the office for leave purposes." (b)(6) (b)(7)(c) didn't see any leave papers for the Admiral, and assumed the Admiral took care of his own leave papers. When the Admiral told him that he was taking "time off," (b)(6) (b)(7)(c) adjusted the schedule to ensure no official business was scheduled during that time.

152. (b)(6) (b)(7)(c) further stated that RDML Lotring typically took time-off when friends were visiting him. On two occasions, once during the week of Thanksgiving 2007 and once in the Spring of 2008, RDML Lotring took "a long weekend" to host out-of-town friends. He had two couples visit him simultaneously that Spring.

(b)(6) (b)(7)(c)

153. (b)(6) (b)(7)(c) stated that as CNSTC, RDML Lotring never submitted leave papers or asked anyone on his immediate staff to prepare leave requests for him.

(b)(6) (b)(7)(c), NETC

154. (b)(6) (b)(7)(c), who was RDML Lotring's reporting senior, stated that RDML Lotring never specifically requested him to approve his leave, but due to their frequent communication with one another, "it was kind of transparent" to him when RDML Lotring was taking time-off, whether or not it was regular leave. RDML Lotring might have informed him once or twice that

he would be on leave, but (b)(6) (b)(7)(c) could not recall any specific instance. (b)(6) (b)(7)(c) further stated he didn't require RDML Lotring to either call him or submit paperwork for approval of leave. He only required RDML Lotring to keep the NETC front office informed of his whereabouts at all times.

RDML Lotring's Testimony

155. RDML Lotring acknowledged that he took leave, but stated that he did so only infrequently during his tour of duty in Great Lakes. When he took leave, he simply informed (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c) of his plan to take leave. He participated in Thanksgiving and Christmas "stand-down periods," but never granted special liberty to himself or anyone on his staff.

156. RDML Lotring further stated that the reason he didn't submit a leave chit to his staff to document his leave was because he expected his (b)(6) (b)(7)(c), "as "part of his assigned responsibilities," to process his leave and have it properly charged.¹⁷ Although his calendar shows periods of "leave" not associated with TDY, RDML Lotring stated that he was not actually on leave, but rather his staff annotated his calendar that way "to block the schedule and limit items to a minimum."

157. RDML Lotring disputed many of the days marked as leave on his office calendar as not accurate, because he remembers working all or some of the days in question. He would sometimes tell his staff to mark something as leave, knowing he would be at work part of the day.

Applicable Standards

158. MILPERSMAN 1050-010, "Definition of Leave" paragraph 1, states:

Leave as defined by [10 U.S.C. 701], is the authorized absence of a member from a place of duty, chargeable against such member per [DoD Instruction 1327.6].

159. DoD Instruction 1327.6, "Leave and Liberty Procedures" states:

¹⁷ The Admiral provided some of his statements in an e-mail response to questions we asked via e-mail. We recognize that his repeated use of "Flag Lt," vice "Flag LT," could mean his Aide, vice his Executive Assistant. In either case, the Admiral assumed that a member of his staff would take responsibility for administratively processing his leave, if taken. It's clear, however, that neither (b)(6) (b)(7)(c) nor (b)(6) (b)(7)(c) assumed that responsibility.

6.24.1. Leave shall be calculated based on actual date of departure on leave and actual date of return from leave.

6.24.2. The day a Service member departs on and returns from leave must not be charged as leave if the Service member is at his or her place of work ... for the majority of the normal working hours of a workday.

6.23.3. A Service member may not combine leave and special liberty.

160. The Standards of Ethical Conduct (5 CFR Part 2635) provide the following:

a. Subsection 101(b)(1), concerning the basic obligation of public service, states:

Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

b. Section 705, concerning use of official time, states:

(a) Use of an employee's own time. Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties.

Analysis

161. RDML Lotring admits that during his tenure as CNSTC he took leave, albeit infrequently. He assumed his immediate staff properly accounted for his leave and charged it as required, even though he never directed them to do so. He admits that he did not give his staff clear guidance on what he considered actual chargeable leave, and as noted above, now disputes some of the days he had his staff annotate on his calendar as leave.

162. RDML Lotring violated his duty to have his leave charged against his leave account. Given the facts that he did not take much leave and that he lost leave annually, this is considered a minor indiscretion, except to the extent it communicated to his staff the perception that he did not feel required to follow the rules. It is also unfortunate that RDML Lotring chose to blame his staff for this minor offense for which he clearly was personally accountable.

Conclusion

163. The allegation is substantiated.

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Allegation #7: That RDML Lotring: (1) improperly scheduled official travel to facilitate doing personal business at Government expense; (2) improperly used Government rental cars for personal business while TDY; and (3) improperly received per diem and other expenses on non-duty days while TDY, in violation of the Standards of Ethical Conduct, the JFTR, and DOD Financial Management Regulations.

Findings of Fact

Scheduling Official Travel to Facilitate Doing Personal Business at Government Expense

164. RDML Lotring is alleged to have arranged unnecessary official travel to New England, so that he could visit his (b)(6) (b)(7)(c), check on a house he owned, and take a ski vacation at Government expense.

165. RDML Lotring's travel records showed that during his tour of duty as CNSTC, he traveled on 58 occasions to locations throughout the United States for official speaking engagements, training symposiums, conferences, and to visit his NROTC and NJROTC units. He visited New England on twelve occasions (21% of his travel): seven times to Newport, RI; twice to Groton, CT; twice to Worcester, MA; once to the NROTC unit at Norwich University, VT; and once to the NROTC unit at the Massachusetts Institute of Technology in Cambridge, MA.

166. RDML Lotring owned a house in the Groton area, and (b)(6) (b)(7)(c) lives in New Hampshire. (b)(6) (b)(7)(c) lives in Norwich, CT, and on occasion he visited (b)(6) (b)(7)(c) while TDY to New England.

167. In the majority of his TDY trips to New England, RDML Lotring did not take any more time than necessary to accomplish the official purpose of his travel. He typically flew into the area the night before, or the day of, the first day of business, and flew out the day of, or early morning after, the last day of business. In all cases we reviewed there were legitimate official purposes for the travel. For example:

a. He visited the Officer Training Command (OTC) in Newport, RI, a subordinate command, to attend a change of command, to speak at Officer Candidate School (OCS) graduations, and, according to the Admiral, to attend meetings to discuss moving command functions from Pensacola to Newport under Base Realignment and Closure procedures.

b. As the former CO, Submarine Learning Center, NAVSUBASE Groton, he was invited to be the guest speaker at the Submarine Officer Advanced Course Graduation in the Spring of 2008 and attended the Joint Undersea Warfare Technology (JUWT) conference in the Fall of 2008.

c. As a former graduate of the College of Holy Cross in Worcester, MA, he was invited to speak there on two occasions, once in the Spring of 2007 for the President's Review and Annual Awards for the NROTC midshipmen, and once in the Fall of 2007 for the O'Callahan Committee Dinner (Holy Cross ROTC alumni and retired naval officers).

[REDACTED] Perspective

168. [REDACTED], the [REDACTED], recalled that, on at least one occasion, there was some discussion about whether the Admiral could take leave or time-off for personal travel when he was on TDY orders. She further stated:

a. She made it "very clear" to the Admiral and his staff that he needed to ensure that the purpose of the TDY was official, pre-established, and appropriate, and not "to get him to the East Coast so he could go up to Groton and be at his house."

And I would see that when we would go over the schedule, and I would see that the Admiral would be going on a trip, and that he would be going and not coming back until the Monday, and I said, "Is he taking off? Is he doing personal things? You know, he can't use the Government vehicle, and he's got to pay for any personal travel."

b. She warned the Admiral about going on official travel to events that weren't necessarily directly related to his position as CNSTC.

I just said... [that] there is a potential perception that it's for personal reasons, and not for official reasons.... It doesn't have to be frequent; it can just be one trip...in which you end up... taking some kind of personal time-off. There could always be that perception that's out there, and that, in the fish bowl environment of Great Lakes, it doesn't take much to do that.

c. She wasn't aware of any official travel by RDML Lotring that was not legitimate. If asked, she would have rendered the opinion that use of leave is unnecessary for weekends during official travel, as special liberty would suffice.

d. After her discussion with the Admiral, she became aware of other trips he made to the Groton, CT, area, but she checked "every event to ensure that it was a legitimate request and for a speaking engagement or official function." She didn't review every single trip the Admiral made, but she was satisfied that all the trips she did review were legitimate.

169. (b)(6) (b)(7)(c) [REDACTED], RDML Lotring's (b)(6) (b)(7)(c) [REDACTED], stated that she was aware of the schedule of planned travel for the Admiral, all of which seemed legitimate. She was unaware of any issue regarding his taking leave while in a TDY status, and she did

not perceive that there was anything inappropriate about the execution of his travel.

170. (b)(6) (b)(7)(c), stated that RDML Lotring could well have legitimate business reasons to travel to NAVSUBASE, Groton.

I know that he continued to be interested in submarine recruiting and training; in fact, that was really one of the principal concerns he had. So it doesn't surprise me that he'd have business in Groton with the submarine community being based there. Getting nuclear officers recruited is part of his mission; so it doesn't surprise me... I've only been let in on his various trips since January of this year, but off the top of my head I can see where there would be a mission need for him to go and talk to the submarine community.... I know nothing about the leave issue and I don't know anything about specific trips. But as a general matter, I would think that there would be business he would need to conduct in the area, official business.

RDML Lotring's Testimony

171. RDML Lotring denies scheduling official travel for personal reasons. He admits that on several trips he took leave or liberty to visit (b)(6) (b)(7)(c) in Connecticut, and he went skiing in connection with one other trip.

Using a Government Rental Car for Personal Business

172. The JFTR limits the use of a Government funded rental car while on TDY to official purposes, which specifically includes transportation to and from duty sites, lodgings, dining facilities, drugstores, barber shops, places of worship, cleaning establishments, and similar places required for the traveler's subsistence, health or comfort. It does not include detours to visit family and friends, sight-seeing, or recreation.

173. RDML Lotring stated:

a. He frequently talked to (b)(6) (b)(7)(c) about ethics issues, but doesn't remember her addressing the specific issue of use of rental cars for personal business. When asked whether he had been aware of the prohibition against using a rental car on TDY for personal use, the Admiral stated that he didn't "have an exact answer for that," but that he had seen the VCNO's standards of conduct guidance issued in August 2008, and that he never failed to comply with "direct" advice from either his (b)(6) (b)(7)(c) or (b)(6) (b)(7)(c).

b. On more than one occasion, while he was on TDY in Newport, he used the Government rental car to visit (b)(6) (b)(7)(c) in Connecticut. On completion of those TDYs, and on all other TDYs, he didn't submit receipts for gas he purchased for his personal use of the car. He typically told (b)(6) (b)(7)(c) to make

his reservations for lodging in Newport and advised him that he would take time-out to visit (b)(6) (b)(7)(c) in Connecticut.

c. RDML Lotring also admits taking a ski trip in conjunction with TDY where a Government rental car was used.

174. RDML Lotring admitted to using his Government rental car to travel to stay or visit (b)(6) (b)(7)(c) in Norwich, CT, on the following trips: June 2007 trip to Cambridge, MA; September 2007 trip to Groton, CT, and Worcester, MA; and December 2007 trip to Newport, RI. RDML Lotring also admits traveling in a Government rental vehicle to go skiing during a February 2008 trip to Norwich, VT, as well as driving to (b)(6) (b)(7)(c) house in NH. On those instances, the rental car was on (b)(6) (b)(7)(c) orders, but the Admiral directed use of the rental car for those purposes.¹⁸

Receiving Per Diem for Non-duty Days while TDY

175. Basically, a military member is entitled to a day of travel before and after a TDY mission. Generally, if the member arrives more than 24 hours before the official business commences, he must take leave (or liberty if the period falls on a normal liberty day). A similar rule applies if the member extends his stay after the official business has concluded. The member may not combine leave and liberty to enlarge the TDY period. During any days of leave or liberty before or after the official business, the member may not claim per diem or other expenses on his or her travel claim.

176. By way of example, assuming Monday through Friday work days and Saturday and Sunday liberty days:

a. A military traveler may depart on Friday (travel day) for a Monday Conference. Saturday and Sunday are non-duty days of liberty. The member may not claim per diem or expenses for those days, but does not need to take leave.

b. A military traveler attending a conference that ends on Friday, may travel the following Tuesday (travel day), but must take leave for Saturday¹⁹ through Monday and may not claim per diem or expenses for those days.

177. RDML Lotring testified that he did not prepare his own travel claims and did not always review them. He expected (b)(6)

¹⁸ (b)(6) didn't go on the trip to Groton, CT, and Worcester, MA, in September 2007.

¹⁹ Depending on the specific facts, Saturday might not be charged as leave. No per diem or expenses would be permissible in any event.

(b)(6) (b)(7)(c), to take care of that and sign them for him.
(b)(6) (b)(7)(c) admitted that he felt it was his responsibility to prepare and submit the Admiral's travel claims. He attempted to be scrupulous in not claiming per diem for non-duty days and segregating other expenses related to leave or liberty days.

Specific Trips

Cambridge, MA, June 2007

178. On Friday morning, 8 June 2007, RDML Lotring traveled to Cambridge, MA, to visit the Boston University-Massachusetts Institute of Technology NROTC unit and speak at their commissioning ceremony. He then spent the weekend with (b)(6) (b)(7)(c) in Connecticut and returned to Great Lakes, flying out of Providence, RI, on Monday morning, the 11th. As shown on his travel claim, and confirmed by his testimony, he intended to take leave on Saturday and Sunday, despite no requirement that he take leave for weekend days, which are normal liberty days.

179. The total cost of RDML Lotring's rental car for the three days was \$384.20, including a mileage charge of \$89.75. He claimed reimbursement in the amount of \$285. The mileage charge, as well as other additional fees on the rental car invoice, appear to be related to the fact he picked the car up in Boston, but returned it at Providence for his own convenience, related to his weekend visit with (b)(6) (b)(7)(c). Since he could have returned the car in Boston the day after he rented it, the Government should only be responsible for a 1-day rental. Therefore, the cost to the Government should have been one-third of the rental cost (less the mileage fee) $[1/3 \times (\$384.20 - \$89.75) = \$98.15]$. Thus, the Government incurred increased expenses in the amount of \$186.85 $[\$285 - \$98.15 = \$186.85]$, because of his unofficial detour to Connecticut.

180. The Admiral offered the following explanation for the car rental claim:

As the travel claim indicates I was on leave for Saturday and Sunday returning on 6/11. Yes it appears that the travel claim should [have] claimed less than the \$285.20 to account for the mile[age] charge, vice just the daily charge that was deducted. I did not review any travel claim for the many trips I made. If this is in error, it should be corrected.

Groton/Worcester, September 2007

181. On Friday, 7 September 2007, RDML Lotring traveled to Groton, CT, to attend the Joint Undersea Warfare Technology (JUWT) Fall Conference, which started with a reception at 1700 Monday, 10 September, in Mystic, CT, and continued until midday on Wednesday; followed by a site visit to the Submarine Learning Center in Groton on Thursday; a day of leave on Friday, the 14th (as shown on his itinerary); an evening speaking engagement at

the College of Holy Cross in Worcester, MA, on Saturday; and return to Great Lakes on Sunday evening, the 16th.

182. RDML Lotring stated that he stayed with (b)(6) (b)(7)(c) in Norwich, CT, on Saturday (the 8th) and Sunday (the 9th), and again on Thursday (the 13th) and Friday (the 14th) while he "was doing a couple of things on base." On Saturday (the 15th) he drove to Worcester, MA for a speaking engagement at Holy Cross, and he flew back to Great Lakes on Sunday (the 16th).

183. RDML Lotring stated that he intended to take leave on the Friday, the 14th, as he finished the conference and other work on Thursday. He didn't conduct official business with anyone in Groton area on the 14th, nor did he use it as a travel day to go to Worcester.

184. RDML Lotring explained that he considered himself on leave on the 8th, 9th, and 14th of September 2007.

I actually worked during Monday the 10th (with appointments in the morning and afternoon), traveling late on the 7th after working the entire day (did not leave until 1830) provided me the opportunity to work on the 10th in Groton. I was on leave the 8th and 9th and 14th. The 14th leave allowed me to complete the conference and RIT II VTC meetings on the 13th (noted on schedule) and remain in the area until the NROTC speaking engagement on Saturday the 15th and traveling on the 16th (Sunday) back to Chicago so I could be back to work on the 17th (Monday). As I stated previously, the 10th was to be a full day for me, so I would have had to travel on the 9th. Leave should have been charged for the 8th, 9th, and 14th.

185. Since the 8th and 9th were normal liberty days, RDML Lotring was not required to take leave, but was not allowed to claim per diem (which he did not claim). The 14th might have been used as a travel day to Worcester (approximately 80 miles), but the Admiral chose to take the day off. Consequently, it should have been charged as a day of leave (and it was not) and no per diem should have been collected (\$64 for meals and incidental expenses was claimed). Rental car charges for 9 days totaled \$527.88, but 3 of those days were early travel for personal convenience (Saturday and Sunday, the 8th and 9th) or leave (Friday, the 14th). The Government's cost should have been two-thirds of the total, or \$351.92. He claimed reimbursement for \$440.92; thus, the Government incurred increased expenses in the amount of \$89.00. [\$440.92 - \$351.92 = \$89.00].

Newport, RI, December 2007

186. On Thursday (travel day) morning, 20 December 2007, RDML Lotring traveled to Newport, RI, to visit OTC as guest speaker for the OCS graduation on Friday (duty day), the 21st. He was scheduled to depart OTC after the ceremony at 1015. While he could have returned to Great Lakes on the 21st, he chose to stay

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through the weekend with (b)(6) (b)(7)(c) and return on Tuesday (travel day) evening, Christmas Day. He drove 569 miles before returning the rental car. Although the Remarks Section (Block 29) of his travel claim showed him in a leave status on Saturday, Sunday, and Monday, no leave was charged against his leave account. The President, however, made Monday the 24th a holiday and therefore a day of liberty for military members in 2007. Consequently, there was no requirement that RDML Lotring take leave on those days, and his travel claim properly omitted a claim for per diem on those days.

187. Total rental car costs for 6 days were \$278.45, and RDML Lotring claimed reimbursement for one-half of those costs, \$139.23. However, given that he remained on travel for his own convenience, only 2 of the 6 days should be charged to the Government in the amount of \$92.81. Therefore, the Government incurred increased expenses in the amount of \$46.42 [\$139.23 - \$92.81 = \$46.42]. He also claimed reimbursement for 6 days of parking at O'Hare, at \$16/day, totaling \$96.00, which included 4 days he remained on travel for personal convenience. Again, the Government should only have paid for 2 days; thus, it incurred additional expenses of \$64.00.

188. RDML Lotring asserted that claiming the full terminal parking fee was an oversight.

Norwich, VT, February 2008

189. On Thursday, 7 February 2008, RDML Lotring, (b)(6) (b)(7)(c), and (b)(6) (b)(7)(c) traveled to Norwich, VT, to visit the NROTC unit at Norwich University. The Admiral had a full day of meetings on Friday and was the guest of honor at NROTC's dining-in that evening. On Saturday and Sunday they went skiing in Vermont, prior to returning to Great Lakes on Monday, the 11th. They drove 419 miles in the rental car, which was on (b)(6) (b)(7)(c) orders. (b)(6) (b)(7)(c) claimed reimbursement for only that portion of the rental fee associated with using the car on Thursday and Friday.

190. Saturday (the 9th) and Sunday (the 10th) are shown as leave days on the Admiral's travel claim, and (b)(6) (b)(7)(c) filed their travel claims, showing those days as non-duty days, so they didn't receive per diem for those days.

191. (b)(6) (b)(7)(c) stated that he traveled in advance of the Admiral to pick up the rental car, as the Admiral would not be arriving in Vermont until after the rental car company was closed. Although their skis and skiing gear could have fit in a sedan, he rented an SUV because they needed a vehicle suitable to drive on the snowy roads that were not well-plowed.

192. RDML Lotring stated:

a. During this TDY, he paid for (b)(6) (b)(7)(c) travel and other expenses. He and (b)(6) (b)(7)(c) each took skis on the trip. The Admiral doesn't remember whether a van was used to get to the Chicago airport, but there was a Government van assigned to the staff. In view of bad weather and rugged country, (b)(6) (b)(7)(c) tried to rent a mid-size SUV on arrival in Burlington, VT. NROTC unit members were waiting at the airport to pick them up and provide assistance with any other transportation requirements.

b. On Saturday, a USMC Colonel (Norwich University Professor of Naval Science) took them skiing at Sugar Bush Mountain, about twenty minutes driving time from the university. Later that day, after skiing, the Admiral (with (b)(6) (b)(7)(c) and (b)(6) (b)(7)(c)) drove to southern New Hampshire and stayed in Keene, NH, visiting (b)(6) (b)(7)(c) who attends Keene State. On Sunday they went skiing on a local mountain in southern Vermont, stayed overnight with (b)(6) (b)(7)(c), and returned to Great Lakes on Monday, the 11th. The Admiral paid for all the gas used on the non-working days and did not submit gas receipts for reimbursement.

193. It appears that additional cost was incurred to the Government because of the aide's choice of an SUV to ensure they could get around to the ski locations, as well as accommodate a space-available (b)(6) (b)(7)(c)) and the ski equipment. There is no evidence, however, that RDML Lotring directed this choice. There is no evidence of other increased cost because of this ski trip.

Applicable Standards

194. The Standards of Ethical Conduct (5 CFR 2635) provides a standard for not scheduling official travel to serve a personal end:

Subsection 702: Use of Public Office for Private Gain.

An employee shall not use his public office for his own private gain....

195. The Standards of Ethical Conduct (5 CFR 2635) provides a standard for proper time and attendance/leave and liberty accountability:

Subsection 705: Use of Official Time.

Unless authorized in accordance with law or regulation to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties.

196. The Joint Federal Travel Regulations (JFTR) provide, as follows:

a. Paragraph U2010 describes the member's responsibilities, among which is the "Obligation to Exercise Prudence:"

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1. The member must exercise the same care and regard for expenses as a prudent person traveling at personal expense.

3. Excess costs, circuitous routes, delays or luxury accommodations that are unnecessary or unjustified are the member's financial responsibility.

b. Paragraph U3415 deals with rental cars for TDY:

U3415 SPECIAL CONVEYANCE USE

A. General. An order-issuing official may authorize/approve a special conveyance when advantageous to the Government. Travelers' personal preference or minor inconvenience shall not be the basis for authorizing/approving special conveyance use.

B. Selecting a Rental Vehicle

1.a. It is mandatory, within DOD, to obtain rental vehicles through the CTO, when available.

Limited to Official Purposes. Use of a special conveyance is limited to official purposes, including transportation to and from (65 Comp. Gen. 253 (1986)): 1. duty sites; 2. lodgings; 3. dining facilities; 4. drugstores; 5. barber shops; 6. places of worship; 7. cleaning establishments; and 8. similar places required for the traveler's subsistence, health or comfort.

197. VCNO Memorandum for All Flag Officers of 17 November 2005, "Ethics Guidance on Use of Flag Aides, Passenger Motor Vehicles, and Travel," stated:

2.c.(1) Official Travel. If travel is undertaken for both official and personal reasons, the use of Government funded travel is permissible only when bona fide official reason are the primary or predominant purpose of the travel, or when the Government derives substantial benefit from the official business performed during such travel. While it is permissible for you to take leave in conjunction with official travel, Navy policy in reference (d) [MILPERSMAN 1050-170] requires you to "scrupulously" avoid "both the fact and appearance of TAD arranged to serve the leave desires of the individual." When TAD fails to meet the requirements for official travel, the traveler may be held accountable and required to reimburse the Government for travel allowances received for the unofficial travel.

2.c.(3) Rental Car. Reference (e) [JFTR] limits the use of rental cars while TAD to official purposes such as transportation to and from duty sites, lodgings, dining facilities, drugstores, barber shops, places of worship, cleaning establishments, and similar places required for the traveler's subsistence, health or comfort. Use of Government authorized rental vehicles for personal use such as transportation to entertainment or recreational facilities or for leave in conjunction with TAD is not authorized. Command hosting meetings and conferences with TAD attendees should provide

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guidance on alternative transportation for unofficial activities that do not qualify under the subsistence, health, or comfort standard for use of Government funded rental cars.

198. The Military Personnel Manual (MILPERSMAN), at section 1050-170, addresses leave in conjunction with TAD. Navy policy provides that "leave shall be granted with TAD whenever requested and operationally feasible," but warns about the need to avoid the "negatives of concurrent leave and TAD:"

a. Government agencies have been criticized in the past for permitting officer and enlisted personnel to take leave with TAD, where it could be construed that the TAD was arranged both as to time and place in order to provide transportation for leave at Government expense.

b. In planning TAD, both the fact and appearance of TAD arranged to serve the leave desires of the individual shall be scrupulously avoided.

199. DOD 7000.14-R, the DOD Financial Management Regulation, Volume 9 (Travel Policy and Procedures), Paragraph 0803 (Voucher Preparation) provides:

080301. Completion. The traveler is responsible for preparing his or her DD Form 1351-2 to claim reimbursement for official travel. Even when someone else prepares the voucher, the traveler is responsible for the truth and accuracy of the information. When the traveler signs the form (and this signature authority must never be delegated), he or she attests that the statements are true and complete and that he or she is aware of the liability for filing a false claim....

....

C. Leave of Absence. When leave of absence of any kind is taken while in a travel status or at TDY (TAD) point(s), the number of hours, type of leave and dates for employees or dates for members shall be shown in the reimbursement voucher along with the scheduled hours of duty if a leave of absence is taken.

200. The reverse side of DD Form 1351-2, Travel Voucher or Subvoucher, contains instructions on annotations to be made when filling out the itinerary in block #15. In the "Reason for Stop" section of the instructions, "LV" is the annotation designated to be entered for "leave en route."

Analysis

201. In connection with the sub-allegation that RDML Lotring scheduled official travel to accomplish personal business, the evidence shows that all his trips to New England had a legitimate official purpose.

202. In connection with the sub-allegation that RDML Lotring improperly used Government rental cars for unauthorized personal

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business, the evidence shows, primarily through RDML Lotring's admissions, that he violated the JFTR U3415 provision limiting such cars to official purposes.²⁰

203. In connection with the sub-allegation that RDML Lotring received per diem and other expenses for non-duty days while on TDY, the evidence shows that the Admiral's Aide made a good faith effort to ensure the Admiral did not claim per diem or other expenses for days he was on leave or liberty while TDY. Nonetheless, the Admiral's claims for three trips (Cambridge, MA; Groton/Worcester; and Newport, RI) included car rental expenses above those that would have been incurred had the Admiral not used the vehicle for personal use. Additional costs were also claimed for terminal car parking for days the Admiral was taking liberty. Finally, per diem was received during the Groton/Worcester trip on a day that was properly characterized as leave. As stated in the DoD Financial Management Regulation, the traveler is responsible for his or her own travel claim.

Conclusion

204. The allegation is substantiated in connection with using a Government rental car for personal business while TDY and claiming per diem and other expenses he was not entitled to while TDY.

²⁰ It is noted, however, that the General Service Administration (GSA) does allow Government agencies to permit their employees to use Government rental cars for personal business while on TDY, so long as the employee absorbs the additional cost. DoD had chosen, however, to impose a stricter standard on its employees and military members.